

REPORTS
Or CAUSES in
Chancery.

Collected by
Sir GEORGE CARY
one of the Masters of the *Chancery* in *Anno 1601*. Out of the labours of Mr, *William Lambert*.

Whereunto is annexed,
The Kings Order and Decree in *Chancery*,
for a Rule to be observed by the Chancellor in that Court; exemplified and enrolled for a perpetual Record there,
Anno 1616.

Together with an Alphabetical Table
of all the C A S E S.

LONDON,
Printed by *A. Maxwell*, for *William Lee*,
M. Pakeman, and *G. Bedell*. 1665.

REPORTS

OF CASES IN

CHANCERY.

Collected by

SIR GEORGE CARR

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led for a perpetual Record there

1710

Together with an Alphabetical Table

of all the Cases

LONDON

Printed by A. Adams, for William

M. B. and G. B. 1710

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Reports

Reports in Chancery.

IF a man be bound in a penal-
 ty to pay money at a day,
 and place, by obligation, and
 intending to pay the same, is
 robbed by the way; or hath intreated by
 word some further respite at the hands
 of the Obligee, or cometh short of the
 place by any misfortune; and so failing
 of the payment, doth nevertheless
 provide and tender the money in short
 time after; in these, and many such like
 cases, the Chancery will compel the
 Obligee to take his principal, with
 some reasonable consideration of his
 damages (*quantum expedit*) for if this
 was not, men would do that by cove-
 nant, which they do now by bond.

Payment
 after the
 day upon
 bonds hol-
 pen.

The like favour is extendable against
 them that will take advantage upon any
 strict condition, for undoing the estate
 of another in lands, upon a small or
 trifling default.

Condition
 to undo
 estates in
 Lands.

Reports in Chancery.

2

Giving
day to
one, it
shall help
the other.

So if two be joyntly and severally bound to pay money, and the obligee will give longer day (or other favour) to the one, and then will sue the other for the debt, he which is sued shall sue in Chancery. 9 E. 4. 41.

Payment
without
acquittance,

A man payeth debt upon a single obligation without taking acquittance, therefore this will not discharge him at the common Law, but he shall be relieved therein in *Chancery* (*quare* 22 E. 4. 6. by the parties oath, but not by witness.

Lessee's
damages
in waste,
moderated
by the
death of
the Lessor.

If a man sell Trees upon the Lands of a Lessee for life, and the Lessee recovereth damages amounting to the treble value that he ought to answer to his Leasor in waste, and the Leasor dieth before any recovery in waste, now the Lessee shall not be suffered to take those damages himself, being so discharged of them, but shall be restrained in *Chancery*. Doctor and Student, 33. 34. and 40.

The greater part of
the debt
paid, and
the rest offered, re-
lieved in
Chancery.

If the obligee have received the most part of the money, payable upon the obligation at the peremptory time and place, and will nevertheless extend the whole forfeiture immediately, refusing soon after the default to accept of the residue tendered unto him, the obligor may find aid in *Chancery*. If

If a man grant a rent charge out of all his Lands, and afterwards selleth his Lands by parcels to divers persons, and the grantee of the rent will from time to time levy the whole rent upon one of the purchasors only, he shall be eased in the *Chancery* by a contribution from the rest of the purchasors; and the grantee shall be restrained by order to charge the same upon him onely.

A man recovered at the common Law a debt in one County, where the obligation was made in another County, against the Stat. 6 R. 2. c. 2. The Defendant sued, and suggested in *Chancery*, that by this means he was put from divers Pleas, of which he might have taken advantage, if the obligation had been sued in the very County, and he had aide there; for the Chancellor said, that he sued to hide the truth, and against conscience also, which cannot be so well found in any place, as in the very County where a thing is done, 9 E. 4. 2. and 9 E. 4. 15. A man shall not be prejudiced by formality or mispleading, &c.

Touching Copy-holders, Mr. Fitz-Copy-hol-
Harbert in his *Natur. Brevium*, fol. 12, no-
 teth well, that forasmuch as he cannot
 have any writ of false Judgment, nor

other remedy at common Law against his Lord, therefore he shall have aide in *Chancery*; and therefore if the Lord will put out his Copy-holder that payeth his customes and services, or will not admit him to whose use a surrender is made, or will not hold his Court for the benefit of his Copy-holder, or will exact fines Arbitrary, where they be customary and certain, the Copy-holder shall have a *Subpœna* to restrain or compel him as the Case shall require, *Dyer* 264. and 124. *Fitz. Subpœna* 21.

Not to examine any Judgement given at the common Law.

First this Court forbeareth directly to examine any Judgement given at the common Law, to which end the Statutes 27 *E.3.c.12.* 39 *E.3.c.14.* 4 *H.4.c.23.* and 16 *R.2.c.5.* were made; and it seemeth that the common Law used some power to restrain such examinations of Judgements before all these Statutes, for 13 *E.3.* upon a recovery had upon a *Quare impedit*, the Defendant sued for help in the *Chancery*; and they sent a prohibition, and upon that an Attachment against him. *Fitz-Harbert, prohibition* 21. The like hath been done upon suits in the Courts of Requests. But yet 9 *E.4.65.* one recovered debt upon an obligation in one County, whereas the obligation was made

made in an other county, and he complained in *Chancery*, because he had lost some advantages, which he might have taken if the trial had been in the other county, which thing in effect was made a Law by the Statute, 6. R. 2. c. 2. And in the Case of *Paramore Ann. 3. & 13. Eliz.* A fine supposed to be levied by an Infant, was examined in *Chancery*, after it had been allowed by examination of the Justices of the common Pleas; but whether these and such other may seem rather to examine the manner, then the very matter and substance of the thing adjudged, it is worthy of consideration.

Sir *Will. Cordall* Mr. of the Rols de-
nyed to compell one to atturn here that
was at Liberty by the Common Law,
in the Case of Sir *John Windham*.

Chancellor *Bromely* likewise denied
such compulsion generally, but where
the party quarrelled with the particu-
lar Tenants Estate, or entreth into
some part of the Lands in demise, or
hath covenanted for recompence for
non-atturnment, there he utterly deny-
eth to inforce the atturnment. *Pasch.*
21. *Eliz.* in Case of *Philips*, and
Doctor *Sandford*.

Fines, Re-
coveries,
&c.

Such assurances as be used for the common repose of mens Estates, the *Chancery* will not draw in question; for a fine with Proclamation ought after the five years to be a bar in conscience as it is in Law; so shall it be of a common recovery for docking the intaile, Doctor and Student, 33. 155.

Mulier, &
Bastard.

So likewise it seemeth that the continued possession of the Bastard eifne shall prevail in conscience against the right of the Mulier pufne. And albeit a feme covert may be thought to join with her Husband for fear in a fine of her lands, yet after the five years it shall not be recalled, for the general inconveniences that may ensue to that highest assurance. Doctor and Student, 154.

Warranty.

And if remedy in *Chancery* should be extended to a Collateral Warranty, the same Saint *Germaine* saith that then all writings shall be examined.

Extent,
Laws.

If the extender undervalue the Lands as there is no remedy at the common Law, 15. *H.* 7. Dupleges Case, because the Debtor may help himself by payment of the debt; so in conscience

science there ought to be no relief, unless it were done by *Covin. Idem.*

Upon *Nudum pactum* there ought to be no more help in *Chancery*, then there is at the common Law, neither against him that hath waged his Law in debt, though peradventure falsely. *Idem.*

Nudum.

pactum.

Wager of Law.

Where a man made Title to a rent seck of which there was no seizing, nor for which he had any action at the common law, and prayed help here, it was denyed upon conference had by the Lord Keeper with the Judges, *Michal. 1596.*

No seizing of a rent seck.

A Copyholder dyeth leaving two daughters by divers Venters, both which do enter and take the profits, without doing fealties, or paying fine, and without any admittance by the Court and the eldest dyeth without issue: This onely possession sufficeth to order the Copyhold to the collateral heir of the eldest, and not for the sister of the half blood, 12. *Eliz. Dyer.* 291

Possessio

soro is in

Copyhold.

A Copyholder in Fee hath issue a daughter and a son by two venters; the Lord committeth the custody of the Land and of the son to the Mother,

Copyhold.

Possession
of the Mo-
ther for the
heir Col-
lateral.

who taketh the profits, and the son dyeth before any admittance; this Copyhold was ordered also for the Heir Collateral against the Sister of the halfe blood, because the Mothers possession serveth for the son, *Anno 12. Eliz. Ibid.*

Copyhold
devise.

The Lord devised a Copyhold to C. for life, and after passed the Freehold of the soyle thereof by livery of seizin thereof to B. for life, reserving a rent; and then by fine levied, doth grant the said Land to the said C. (*come ceo que il ad de son done, &c.*) And C. accepteth the said rent of B. and thereupon it was questioned whether or no the Copyhold of C. were gone in Conscience. 28 *H. 8. Dyer 30.*

Copyhold
forfeited
for cutting
of Trees,
during
minority.

A Copyholder within age is admitted, and the Lord committeth the custody to the Mother of the Infant, whose under Tenant cutteth down Timber Trees, which being presented, the Lord seizeth the Land for the forfeiture (during still the nonage) and keepeth it till he dyeth, and it descendeth to his Heir, who and his Father had kept it 40 years, and for that the Copyholder moved suit in the *Chancery* 29 years since, which was now revived, and the forfeiture

feiture was taken during his minority, he was restored to his possession till the Lord should recover it for the forfeiture by the common Law, in the case of Mr. *Litton*, Mich. 41. and 42 Eliz. Justice *Clench*, and the Masters.

Tenure by Tenant Right as it is usual towards the borders of *Scotland*, shall not pay any uncertaine fine or incombe at the change of the Lord by alienation, but by death, which is the Act of God; for otherwise the Lord might weary the Tenant by frequent alienations; but it may be fine uncertain upon the alienation of the Tenant as well upon death as discent, for that it is the Act of the Tenant, and in his power. Sir *Thomas Egerton*, Mich. 1599. Case *Mannor de thwaites & les Justices accord*; the same holdeth in Copyholders, for the custom must be reasonable.

Tenant right fines for alienation of the Tenant, but not of the Lord.

A Copyholder in Fee surrendreth to the use of one, and to his Heirs, upon condition of redemption, writeth down his debts, and willeth part of his Copyhold to be sold for payment of his debts after his death; one of the creditors payeth the money at the day to the Mortgage, who nevertheless inrolleth the surrender afterward; this other creditor

Payment of Creditors out of a copyhold forfeited by Mortgage.

ditor complaineth against him, and the Heir in *Chancery*, and had a decree that the Copyhold should be sold for the payment of debts, and the remainder of it (if any were) should descend to the Heir, 41 *Eliz.* For although the devise of the Copyhold be void, yet to take it from the surrendree, (who held it onely for money to be paid) and to pay him and the other creditors therewith, hath good warrant in equity, and the Heir hath no wrong for that it was gone from him by the surrender lawfully.

Lease paroll

Termino Trinitatis 40. *Eliz.* the Lord Keeper Sir *Thomas Egerton* pronounced openly, that he for avoiding perjuries and other abuses, would not give help to a Lease claimed by paroll onely.

Marriage portion recovered at common Law, and reversed in the Exchequer, holpen in *Chancery.*

One *Cutting* brought an action upon Assumpsit for one hundred pound against the Executors of a Testator that promised the Money in marriage with his daughter, and recovered at the common Law; which judgment was reversed in the Chequer Chamber, but *Cutting* sought help in *Chancery*, where it was proved that the Executors had Assets for Funeralls, Debts, and Legacies, with

with a good overplus to satisfie the complainant; and therefore after hearing and report thereof by Doctor *Stanhope*, and Mr. *Lambert*, it was decreed for the complainant; but the Executor exhibited his Bill for remedy; upon which Justice *Owen* thought he was not to be heard till he had satisfied the decree; and then also but onely upon new matter; not thus resting, the Executor exhibits a second Bill, which was referred to Master *Lambert*, but he excused himself, that he was not to judge in his own cause, and recommended it to the censure of the Lord Keeper, who ordered the Executor to performe the first decree, *Misha. 40. Eliz. 1598.*

Trinity 41 *Eliz.* The Lord *Egerton* pronounced openly, that he would give none aid in *Chancery* for the maintenance of any perpetuities, nor of any Lease for hundreds, or thousands of years made of lands holden in *Capite*; because the latter be grounded upon fraud, and the former be fights against God.

A. was bound in a Statute to B. And one C. lendeth 100 l. to A. with which A. bought lands, and assured the same to C. for his hundred pound.

Perpetuities.
Lease for 1000 years.

Statute lands bought with mony lent, priority sans A. *Covin.*

A. faileth in payment. B. extended that land. C. was denyed help in *Chancery*, although the land was bought with his money; for B. hath priority of right in Law without Covyn, *Crompton*, 63. a.

Bailement
sans consi-
deration
counter-
manded.

A. delivereth twenty pound to B. to the use of C. a woman, to be delivered her the day of her marriage, before her marriage. A. countermandeth it, and calleth home the money, C. shall not be aided in *Chancery*, because there is no consideration why she should have it. *Dyer* 49.

Voide li-
mitation
de Lease in
vol. Cook
lib. 8: 95.

A Termor devised his Terme, and whole Lease to B. Provisoed that if B. dye, living C. Then the Terme shall wholly remain to C. B. selleth the Terme, and dyeth, living C. And by the opinion of the Justices C. shall have no remedy, *Dyer* 74.

Ravish-
ment de
gaid.

The Vice-Countesse *Mountagne* claimed the Wardship of the body of the Heir of a Tenant of hers, which was esloyned from her; she suspecting some of the Heires friends, exhibited her Bill in *Chancery*; and it seemed they should not answer to charge themselves criminally; especially

in this Case, where so great a punishment as abjuration may follow, &c.

Cromer and *Peniston* married two Sisters joynly possessed of a Lease for years; the wife of *Cromer* died, *Peniston* claimed the whole by Survivor; *Cromer* exhibited a Bill, suggesting that *Peniston* had in her life time severed the joyniture by some act secretly: The Lord Keeper over-ruled, that the defendant should not answer. *Mich. 29. and 40 Eliz.*

As concerning confidence secretly knit to Estates, it hath manifold considerations; first, if my Feoffee upon confidence, do infeoff another *bona fide*, that knoweth not of the confidence, I am without remedy. *Fitz-Harbert, subp. 19.* But if the second Feoffee have notice of the use, he shall be compelled here to perform it, *5 E.4.7.*

So if my Feoffee die, and the land descend to his Heir, I have no remedy against him, *8 E.4. 6.* All the Justices; and this confidence extendeth not only to the taking of the profits, but also that the Feoffees shall do acts for the good of the Feoffor; and if the Feoffor require him to make an estate to any other, he ought to do it; but thereof he

Survivor
in Joynt-
Tenancy
de Lease.

Feoffees
to use.

Notice of
the use.

If my
Feoffee
die, I have
no remedy
against his
Heir.

The Feoffee shall do acts for the Feoffors good.

he ought to have request in writing, for he is not to do it upon a bare message, or upon desire by word onely. 37 H.6. 35, 36. And if the Feoffor will have him make an Estate to *I.* for life, the remainder in Fee to *B.* though *I.* will not take Estate, yet *B.* shall compel him to make Estate to him in the life of *I.* *ibid.* 36. *Finch.* So if the Feoffee be disseised, the Feoffor shall compel him to sue an Assize, 2 E. 4. 7.

They may grant Offices, but not annuities.

Nevertheless those Feoffees might grant necessary Offices, as Stewardships, Bailiweeks, &c. though they may not grant Annuities to learned men to defend the Land, 8 H. 7. 12. They may also as it seemeth give Fees to Counsel, and shall have allowance thereof, so far as they are from being maintainors.

Fees to Counsel.

Money given to buy Lands.

If I give money to one to purchase Lands therewith to him and his Heirs, and to permit me to take the profits thereof during my life, and he withholdeth the profits, he shall be compelled by Subpœna, *Crompton*, Fol. 48. b.

The Feoffee shall retain the Land to his own use sur-at- tainder de felony.

If (*Cesti que use*) be attainted of Felony, the Lord shall not be aided by Subpœna to have his escheat; and if the Heir be barred by the corruption of his

his bloud, then the Feoffee as it seemeth shall retain the Land to his own use, 5 E.4.7. Feoffments of use, Brooke 34.

When the use is to the Feoffee and his Heirs, without any other intent, there (*Cesti que use*) may declare his will thereof, and may vary at his pleasure; but if it be to any intent certain, as to take back an estate tail, or with remainders to others, then he cannot change it, for the interest that is in others, 5 E.4.8. a.

Whether the use of gavel-kind Lands should ensue the nature of the land, and so of Borough English, or shall be at the common Law, because the custom do extend to Lands, and not to uses, or rents, as is said against Fitz-Harbert.

Although (*Cesti que use*) of a term for years be not within the Statute of uses, rather therefore he shall have remedy in Chancery, Crompton 64.

Where the complainant will rest upon the oath of the Defendant, and be contented to be judged thereby, there the oath of bewraying is hardly granted.

Conscience never resisteth the Law, nor addeth to it, but onely where the Law is directly in it self against the Law.

of

of God, or the Law of Reason; for in other things *Equitas sequitur legem.* Saint Germaine, Fol. 85. 155.

Things
left to the
conscience
of the party.

Sometimes equity helpeth a man to that, for the which there is no Law of Man provided. fol. 85. *ibid.* Sometimes equity follows the meaning of the parties in their contract, 86. *ibid.* where a common inconvenience will follow, if the common Law be broken, there the *Chancery* shall not help. 155. For albeit the party cannot with a good conscience take the advantage of sundry things to which he comes, yet the Court of Conscience is not thereby bound to help the other, but must leave some things to the conscience of the party himself.

Help in
Chancery
against
Executors.

It is reported, 8 E. 4. 6. and 22 E. 4. 6. year Book, That the Lord Chancellor and Judges were of opinion, that a Subpœna lieth not against the Heir of a Feoffee in trust; but our time affordeth that help against Executors very commonly, as between *Onslowe* and *Onslowe*, Lord *Norris* and *Lester*, *Cutting* and *Huckford*, &c.

Surety.

At the common Law, if a man were surety for anothers debt, he was chargeable if the debtor failed in payment;

ment, but *Magna Charta*, cap. 8. ordereth that the pledge shall not be distrained, if the principal debtor be sufficient to pay; this grew troublesome to the creditor, and therefore it fell in use that the pledge should be bound as principal, and so by the common Law he is chargeable notwithstanding the sufficiency of the principal; nevertheless it is now usual in *Chancery* to help this surety against whatsoever default of the principal, if so be he will offer the principal debt and damages: but in my opinion he ought to find here no other relief then the principal debtor should find, because he is not onely a principal by his own Bond, but also was the cause for which the money was lent, seeing that without him the principal had not been credited. And experience bewrayeth, that this favour to sureties breedeth contempt of Bonds: *Nihil est autem (saith Cicero) quod vehementius remp. continet quam fides, quæ nulla esse poterit si non erit necessaria solutio rerum creditarum, fraudandi vero spe sublata, solvendi necessitas consequitur.*

The surety chargeable.

To help the surety.

No other relief for the surety, then for the principal.

But the Case of the purchaser (*bona Purchasor. side*) of land subject to a Statute, or

C

recog-

recognizance, is better then of such a surety; and so is the case also of the Heir of the Recognizor, or Obligor; for though the land be charged in their hand with the debt, yet equity ought to relieve them touching any penalty, unless they be found in *Mora, &c.*

Fraud upon fraud.

If a debtor will collude with some of his friends in fraud of his Creditors, and the friend break trust with him, this Court will not punish the breach; yet *Greene and Cotterells Case* to the contrary (*fraus non est fallere fallentem.*) But two Doctors and I took order in such a Case between *Woodford*, and *Multon*, *Mich.* 42. and 43 *Eliz.* by our report that the goods so conveyed in fraud, should be transferred to the benefit of the Creditors.

Feoffee punishable for making Estate at the wives request during the coverture.

A Man was enfeoffed to the use of a Woman sole, which taketh an Husband; they both for money sell to B. the land which payeth it to the Wife; and she and her Husband do pray the Feoffee to make Estate to B. Afterwards her Husband dieth: now by the Chancellor and all the Justices, she shall have aide against the first Feoffee by Subpœna, to satisfie her for the land; and

if the second Feoffee were conusant, a Subpcena shall be against him for the land; for all that the Wife did during the coverture (as they said) shall be taken to be done for fear of the Husband. 7 E. 4. 14. Subpcena *Fitz-Harbert* 6.

If A. sell land to B. for 20. l. with confidence, that it shall be to the use of A. yet A. shall have no remedy here, because the bargain hath a consideration in it self. *Dyer* 169. *per Harper*. and such a consideration in an Indenture of bargain and sale seemeth not to be examinable, except fraud be objected, because it is an estoppel.

No relief against his own deed.

Lands be mortgaged to A. and B. where A. onely payeth the money, and the intention was that B. should take nothing; now B. shall be compelled to release to A. 27 Eliz.

Release of joint Feoffee.

A. willeth that B. shall sell his Land to C. now C. shall have a Subpcena against B. to compel him to sell the restators land unto him. 15 H. 7. 12.

Subpcena against one appointed by will to sell.

Pyers was bound in a Statute to *Hawes* and *Joan*, for the behoof of *Joan*, and *Hawes* released to *Pyers*, whereupon she brought a Subpcena against them both; but *Pyers* was discharged, although he knew the confidence,

To discharge himself of a bond is permitted in equity.

dence, because it is permitted in such a case a man should help himself to be discharged of his Bond; and the Subpœna stood against *Hawes*, because he had deceived *Joan*, 11 E.4.8. a. *Tamen quer.* for it is no conscience to be a partaker in fraud; therefore if my Feoffee in use had made a Feoffment unto one that knew of the use, the Subpœna did lie against them both. 5 E.4.7. And the Case precedent liked not the reporter.

Forced to
sue an Ob-
ligation.

If an Obligation be made to B. to the use of C. now B. shall be compelled here to sue upon that Obligation. 2 E.4.2.

Executor
shall not
release a
Bond
without
his Co-
partner.

If one Executor will release a debt without the consent of his copartner, whereby the Will cannot be performed, the releasor and the releasee shall be ordered therefore in *Chancery*, 4 H.7.4. By the Chancellor, against the opinion of *Fineux*.

Executors
shall not
answer
without
his Co-
partners.
Copart-
ners to
joyn in
Plea or
present-
ment.

If a Subpœna be brought against three Executors, and one of them appeareth, he shall not be compelled to answer till they be driven to appear also, for they are but one. 8 E.4.5. By the Chancellor.

So if two Copartners, or joint-Tenants joyn in a *Quare impedit*, and the one will plead covenously, he shall be compelled

elled here to join with the other in Plea or presentment.

And so if lands be severally given by One deed one deed, to two men; he which hath by which the deed shall be compelled here to shew it for defence of the others Title, 9 E. 4. 41. two claime severally.

A. made a Deed of Feoffment to his own use to *B.* but gave no livery of seizin. *A.* dyeth, *C.* his heir bringeth a Subpœna against *B.* but by *Morton* Master of the Rolls, *C.* was denied help here, because *B.* had nothing in the Land; and if he abate, there is remedy at the common Law against him, 18 E. 4. 13. Where remedy at common Law, no help here.

Where certainty wanteth, the common Law faileth, but yet help is to be found in *Chancery* for it; for if the Queen grant to me the goods of *A.* that is attainted of Felony, and I know not the certainty of them, yet shall I compel any man to whose possession any of them be come, to make Inventory of them here, 36 H. 6. 26. Goods of Felons granted which are difficult to prove.
Cur.

It is most usual in *Chancery* to demand evidence concerning the complainants Lands, to which he maketh Title, which are not in Chests, Baggs, Bringing evidence into Court.

or Boxes, and whereof he knoweth not the Date, &c.

Justifying
detaining
of evidence.
ces.

And in that Case the Defendant made Title to the Lands, and justified the detaining of the evidences, for maintenance of his right; whereupon it was ordered, that the complainant should bring an action for the Land at the common Law, to which the defendant should plead in chief; and that he for whom the verdict should passe, should also have his possession stalled here, 28 Eliz,

Tenants of
the Land
uncertain.

If a man have cause to demand land by action, and knoweth not the Tenant of the land, by reason of the making of secret Estates, it hath been lately used to draw them in by Oath, to confess the Tenant; but it is now doubted.

Tenants in
common
know the
certainty.

A Tenant in common, of a Manor for long time, occupied wholly by the other Tenant in common, which knoweth not the quantity of the Manor, by reason the other hath also sold lands intermingled, had the sight of the Court Rolls, and Writings of his companion, concerning onely the quantity of the Mannor, but not concerning the sold Lands, nor his Title to the Mannor, and

and the other was ordered also to shew the like on his part. *Capell and Mym.* 1599.

The *Chancery* also giveth help for perfecting of things well meant, and upon good consideration. As if in a Feoffment of Lands for money the word Heirs be omitted in the deed, *Andeley* Chancellor, 9 *H.* 8. said that he would supply it.

Supply of true meaning in Feoffments,

A man bought debts due upon Obligations, and gave his own Obligation for the money to be paid for them; and because he had not (*quod pro quo*) but onely things in action, and the seller would not use action upon them for the benefit of the Vendee; It was ordered here by the assent of the Judges thereto called, that the Vendor should bring in the Obligation to be cancelled, 37 *H.* 6. 14.

To bring in an obligation to be cancelled.

But if a man pay money upon an Obligation or a Statute that is single, the Obligee, or Counsee shall not be called hither to cancell it, though the other had no acquittance upon the payment made, 22 *E.* 4. b. *les Justices*, and Doctor and Student 23. who said, that a man shall have no aid here to supply his folly: As if he pay

Money paid upon Obligation single, or single Statute not compelled here to cancel it.

Yet upon a mortgage he shall be compelled to bring in the indenture to be cancelled here. a debt upon a single Obligation or Statute without taking acquaintance. But Robert Stillington Episcopus Bathonum said that (*deus est procurator futurus.*) I think if money be paid upon a redemption of a mortgage by Indenture without taking an acquittance, the mortgage shall bring in the Indenture to be cancelled here.

Lands sold in two counties, and livery made only in one. So if a man sell lands in two Counties for money, and maketh livery in the one onely, he shall be compelled in conscience to perfect the assurance by another livery. Doctor and Student 37. for the contract faileth in a circumstance or ceremony,

Leaffor to have the woods leaving sufficient bootes. A lease is made of a House and Woods, wherein it is covenanted, that the Leaffee shall have Houseboot and Fireboot. By this it is implied and meant that he shall not have any of the Woods to any other purpose, but that they belong to the lessor; and it is usual to help him in the Chancery, to them leaving sufficient for these boots.

Messuage carries the land used with it. A Messuage was demised (*cum pertinentiis*) onely but for that sundry Lands had been occupied therewith for the same rent, and by the same words; the Lord Chancellor Bromley by advice of

of the Judges, ordered those Lands should now passe also; yet in Law they do not passe, as some Justices hold.

The Lord North demised a Mannor (excepting the Court Baron) and perquisites, &c. the exception was found void in Law; and the Tenant Lady Dacres would not make suite to the Court kept by the Lord North. But the Lord Keeper Puckering, assisted with some Judges, decreed her to make suite, for that it was plainly so intended.

A man made a gift of his goods of intent to defraud his creditors, and yet continued the possession of them, and took sanctuary, and dyed there; now his Executors having the goods were charged towards the Creditors, 16 E. 4. 9.

So if a Lessee for years demiseth parcel of the Terme to another, and covenantously forfeiteth his whole Lease for any condition broken, and taketh the Land back in Lease again, his Lessee shall find help in Chancery. (rompton 64. 65. And Stillington the Chancellor, 8 E. 4. 4. was of opinion that (*pro latione fidei*) or breach of promise, a man was at liberty to sue either in the spiritual Court (*Canonica Injuria*) or else in the

Mannor demised, except the Court Baron.

Fraud or covyn in goods.

Grand lease forfeited by covyn.

Lacione fidei.

Canonica Injuria.

the Chancery, for the damage accrued by the breach,

Conuzee.

A man had Lands of ancient demesne in extent for debt, and they were recovered from him by the sufferance of the Vouchee, whereby he was ousted; in this Case he shall be holpen here. *Morton* Chancellor *per Assent Bryan and Hussey* Justices, 7 H. 7. 11.

To avoid
future per-
jury.

If one that is bound with another for the debt of the other payeth it at the day for fear of Arrest; now if he sue his counter-bond which he hath to save him harmless (*non est damnificatus*) is a good Plea at the common Law against it; but yet the Chancery will give order for his repayment. *Mich.* 31. 32. *Eliz.* And whereas such a surety paid the debt, and sued the principal upon his Obligation to save him harmlesse; the principal brought a Subpoena, and alledging that he having delivered goods into the hand of the surety to save him harmless, prayed an Injunction to stay his suite; but because the surety made another title to the goods, the Court would not stay the suite for him. 16. E. 4. 9.

Payment
for the
principal
by the
surty.

Where Deeds and Mynuments do concern as well the defence of the Tenant for life,

life, his title who also possesseth the Deeds brought into the Court, as the right of another in reversion or remainder, it is usual to have them brought into this Court for the avoiding all perils, and the indifferent custody of them, *Dixies and Hillary* 40. *Eliz.*

A Lease is made for life, the remainder for life, the remainder over in Fee; the first Lessee maketh waste; and because he in the Fee hath no remedy by the common Law, and waste is a wrong prohibited, he shall be holpen in *Chancery*, *Crompton* 48. 6.

And not every bar or stopell in Law ought also to bind in *Chancery*: For if a legitimate daughter, and her sister a Bastard, do join in suing of their livery, this ought not to bar in conscience, howsoever it may estop in Law, Doctor and Student, 34.

It is usual in a Bill of *Chancery* to object, that the Case hath proper help at the common Law, and 21 H. 7. 41. where one assumed for 10 l. to Lands to another, it was said he might have action upon his Case; and not to sue in *Chancery* to compel him to make the Estate: but these helps be divers, and not the same; for by the one he seeketh the Land; and

Deeds
brought
into the
Court.

Wast ho'
pen in
Chancery.

Muller
and Ba-
stard *Joine*
in suing
their live-
ry.

Action of
the case
seeketh
damages,
subpoena
rem ipsam.

and by the other he demandeth damages onely. And therefore I see not, but that the Petition in Parliament might have prevailed, if it had stood upon that point onely; and at this day, it is taken for a good cause of dismissal in most causes, to say that he hath remedy at the common Law; and where an action upon the Case for a *Nuisance* and damages onely are to be recovered, the party may have help here to remove or restore the thing it self, *quod est idem*.

Fines fraudulent.

A. leassed lands for 21. years, and let other lands at will to B. that had lands in the same Town, who makes a Lease for life to C. of his own lands and of A's. and then by Fine all is conveyed to B. he payes the rent to A. still the five years pass; by the opinion of all the Judges delivered to the Lord Keeper, this fine shall not bar A. *quia apparet per lo payment del rent and cest case fit subscribe per Popham & Andersan. 12. Feb. 1601. 40 Eliz.*

Executors how upon trust.

Nota que Executor *non* doit estre a trust, unlesse he have an especial gift in the will, and that may then be in trust, otherwise the general trust of an Executor is to pay debts and legacies; and
of

of the surplufage to account to the ordinary in *pious ufus*, 44 *Eliz.* 8 *Junii* 1602.

A Woman fole takes confideration for making a Leafe for 21 years, and then marries; and ſhe and her husband made the promifed Leafe at the 21 years end, the Leffee ſurrenders and takes a new Leafe for 21 years more; the husband dies, the wife ouſtes the Leffee, who ſues in *Chancery* to have the firſt Leafe continued reſt for the firſt 21 years, and not remedied here, the ſurrender being voluntary, 44 *Eliz.* No relief againſt a voluntary act.

Two Joynt-Tenants, the one takes the whole profits, no remedy for the other, except it were done by agreement, or promiſe of account, 8 *Junii* 1602. 44 *Eliz.* Joynt Tenants, one taking the profits.

A Defendant, not being a principal Defendant, might be read at a witneſs, if he were examined on the Plaintants party in another ſuit, between other perſons, in Caſe of *Kingſton upon Thames*, 10 *Junii* 1602. 44 *Eliz.* Defendant examined as a witneſs.

A cuſtom of deſcent in a Mannor, and many other things were in controverſie between the Lord and Tenants, and between the Tenants themſelves. And in the tenth *Eliz.* a general agreement General cuſtoms reduced to certainty by agreement in a mannor.

ment made by Deed indented, and a Bill in *Chancery* for establishing the same, but no Record to be found but the Deed inrolled, though all the Tenants of the said Mannor shall be stopped in the *Chancery* to speak against this, (*Cac. est qua le Repes del realme*) notwithstanding pretence was made (*Philips* being of counsel with the defendants,) that agreement cannot alter a custom in Law, that some were infants, some feme coverts at the time that the Lord was but Tenant in taile, of which opinion was Mr. *Cook* Attorney general, and Justice *Gawdy*, 10 Junii 1602. 44 *Eliz.*

Statute
acknow-
ledged in
my name
by a
stranger.

If a Statute be acknowledged in my name by a stranger, I shall have an action of disceat against him, but I shall not avoid the Statute or recognizance; but if it be acknowledged by one of the same name with me, I shall avoid it by Plea. 23 Junii 1602. 44 *Eliz.*

Power to
make
Leases.

The opinion of the Courts is, that uses may be raised by covenant for Joyntures, but power to make Leases in that sort cannot pass, but it may be done by Fine, or transmutation of possession, if the covenant be that the owner will stand seize to those

those uses, 27 Jun. 1602. 45 Eliz.

Whether Copyholders may be entailed, and held, that they may not by the Statute (*de donis conditionalibus*), but by the common Law denante; and that surrenders, or plaints in nature of fines and recoveries may bar these state tayls, as well in the Court Baron, as at the common Law, if the custom have been such, which is the rule in these cases, 3 Feb. 1602 45 Eliz.

Administrators in nature of a guardian to an infant being executor, exhibits on his behalf a Bill in Chancery; the infant (depending the suit) comes of full age; this abates not the Bill, by the opinion of the Lord Chancellor Egerton, 7 Feb. 1602. 45 Eliz.

Doctor Ford by his will devised certain lands to his Wife in these words, (*non per viam fidei commissæ*) for which his son might sue her, but hoping if his Son grew thrifty, that at her death she would leave the remnant of these Leases to him; she married Greyfil; but before marriage Greyfil wrote unto her, that she should have the disposing of those Leases at her death; after the marriage Greyfil sells the Leases; Ford brings his suit in Chancery, and had

Copyhold
entailed sur-
render.

Abating a
Bill.

Leases de-
vised to
his Wife,
on confi-
dence to
come to
his Son,
not relie-
ved.

no help by the opinion of the Court,
31 Maii. 1 Jacob. 1603.

Possession
bound by
decree, and
the partie
prohibited
to sue at
common
law.

Inter Tomley and Clench, It appeared by testimony of ancient witnesses speaking of 60 years before, and account Books and other writings, that *Francis Vaughan*, from whom *Tomley* claimed was *mulier*; and *Anthony* from whom *Clench* claimeth was a Bastard; and the possession had gone with *Tomley* 50 years. In this Case the Lord *Egerton* not onely decreed the possession with *Tomley*, but ordered also that *Clench* should not have any tryal at the common Law for his right, till he had shewed better matter in the *Chancery*, being a thing so long past; it rested not properly in notice *de pais*, but to be discerned by Books and Deeds, of which the Court was better able to judge then a Jury of Plough-men, notwithstanding that exceptions were alledged against those ancient writings; and that for the Copyhold-land, the verdict went with *Clench* upon evidence given three days before Serjeant *Williams*, that *Anthony* was *Mulier*, 31 Maii. 1 Jacob. 1603.

Sir *Edmond Morgan* married the widow of *Fortescube*, had his wives lands distrained

distraigned alone by the grantee of a Grantee
 rent-charge from her former Husband, distraints
 and therefore sued the Grantee in one who
Chancery, to take a ratable part of the prayeth
 rent, according to the lands he held relief, or-
 subject to the distress; and notwith- dered he
 standing the Lord chiefe Justice *Pop- sue the rest*
hams Report, who thought this reason- and the
 able, the Lord Chancellor *Egerton* will Grantee,
 give him on this Bill no relief, but the one to
 ordered that he should exhibite his Bill contribute,
 against the rest of the Tenants and and the o-
 Grantee both, the one to shew cause ther to ac-
 why they should not contribute, the cept of e-
 other why he should not accept of the quality.
 rent equally; otherwise it was no rea-
 son to take away the benefit of distress
 from the Grantee, which the Law gave
 him. 7 Junii, Jacobi. 1603.

A. In forma pauperis had a decree a- Contents
 gainst C. for the Mannor of B. that the of a Man-
 contents of the Mannor were doubtfull. nor as it
 C. shewing Antient Deeds, that pro- was 60.
 ved divers parcels of the Lands claim- years past,
 ed by force of the decree by A. to be
 of another Mannor, which notwith-
 standing, the Lord Chancellor *Egerton*
 ordered that it should be put to Jury,
 and they to find as the Contents of the
 Manor had gone by usual reputation

60. years last, and not to have it paired, and defalked by such Ancient Deeds.

Executrix
husband
ordered
to pay
debts.

A. Married a Feme Executrix subject to a devastavit; if A. have not sufficient to satisfy, himself shall be imprisoned for the debt.

Plaintant
mistaking
his Title in
his Bill.

A Plaintiff in *Chancery* for a Lease upon a Bill, that affirmed the Lease to end at our Lady day, *An.* 1604. had the same decreed for him; many years after coming to the Lease it self, he finds, that it is not to end till our Lady, *Anno.* 1605. And then moves in *Chancery*, that he may not be forced to leave the land, till that time as the decree appointed him (*qui constitutus est cancellarius, 24 Julii ad Coronam Regis*) for the first he must performe the decree; and then exhibite a new Bill upon the special matter, otherwise it were perilous to blow away decrees upon motions. *Hil.* 1 *Jacobi.* *Gosset com. Crowther,* fol. 122.

Leassee
conveyed
in trust to
pay debts.

Henry Earl of *Darby* conveyed certain lands in trust to *Doughty* his servant for payment of his debts, upon mediation of an end of controversies between the daughters of *Ferdinand*, eldest son of *Henry*, and *William* his younger

younger son now Earl, Articles were set down, that *Will.* should discharge all his fathers debts; whereupon *Doughy* conveyed the Leases to *Will.* the creditors sue *Doughy* in *Chancery*; and ordered to pursue their remedy against Earl *Williams. Hil. 1 Jacobi.*

Hearle plaintiff in *Chancery* against *Botelers* mother and son, whose husband had bought taylor'd lands of *Hearles* brother, to which the plaintiff was inheritable; and some of the money due upon a bond unpaid, and the bond lost. And the opinion of the Lord Chancellor was, to charge the son and the mother, in regard of the land in their possession, with the payment thereof. *Hil. 1 Jas.*

Heir of purchaser charged with payment of money behind for the land.

Nota in le case Mynn and Cobb, the trust was not so fully proved as the Lord Chancellor would make a full decree thereupon, so as it should be a president for other causes, and yet so far forth proved, as it satisfied him as a private man; and therefore in this case, he thought fit to write his letters to the defendant to conform himself to reason; and affirmed, that if he should find the defendant obstinate, then would he rule this cause specially against the defendant. *sans la tires consequence. Hil. 1 Jac.*

Proceedings in a cause where there is no full proof.

Copy good
by devise
without
mention of
surrender.

Turning of
water
courses
from Mill;
holpen.

Waste for-
bidden in
Chancery,
where not
punishable
at Law.

Nota in the case of *Manwood*, that there behoveth not a full surrender to be expressed in the Copy, but the devise is chiefly to be regarded, if the surrender be perfect in the Rol of the Lord, though there be no mention at all of a surrender good enough. *Hill. 1 Jacobi.*

Inter Swayn and Rogers, the case was in effect an Assize of *Nusans*, for *Rogers* disturbing the trenches, and plucking up of stakes of *Swaynes* Mill Leet; and making a bank, or dam beneath, that made the water reflow so as the wheelles could not go; and exception taken that the Court should not hold Plea thereof (*sed contrarium adjudicatur*) many causes of the same manner ended here; and this specially for *Rogers* a great man in the country, *Swayne* a professor of the Law, who sought hereby to avoyd multiplicity of suits, *per Warburton* Justice; but upon a second hearing at the Rolls, referred to a Commission of *Sewers*. *Hil. 1 Jacobi.*

Nota per Egerton Chancellor, where Tenant for life, the remainder for life, though there lye no action of waste in *Chancery*, yet he shall be prohibited to do waste by the Chancellor, for wrong to the inhabitants, and hurt to the common-wealth. *Hill. 1 Jacobi.*

Blsomer

Bloomer having married the widdow of *Nanfan*, who had forfeited a Recognizance to the Archbishop of *Canterbury*, for not paying of her daughters Portion, intreated the Bishop of *Canterbury*, to take a new Recognizance, and discharge the former. *Bloomer* after finding that his wives lands was intailed, used means to have her by Fine, or recovery, to put it into Fee, that so it might be subject to the Recognizance, and hoped to get it from his wife also. One *Bridges* his wives kinsman withstood this; now dyeth the woman, the Portion unpaid; *Bloomer* is sued for it in Chancery, and the opinion of the Court against him; the Bishop of *Canterbury* had certified against him; and because his counsel was not ready that day, the Chancellor declared he must take the Archbishops Certificate, not as a Testimony, but as a judicial proceeding; and therefore willed *Bloomer* to satisfie the Archbishop, or else he must decree against him. *Hill. 1 Jacobi.*

Archbishops Certificate against *Bloomer* for not paying a maids portion.

Nota that witnesses *ad informand. cor- scientiam*, shall never be appointed to be taken but upon hearing (*ubi Juxta mand. condubitat*) but yet witnesses examined after publication not fit to be published,

Witnesses *ad informand. cor- scientiam.*

may be fit to be *ad informandum conscientiam*, if it shall be thought meet upon the hearing *Hill. 1. Jac.*

X Five pound costs given in a demurrer, and the Counselor prohibited to deal any more in Chancery.

Daniel Hill having put in for his Clyent a long insufficient demurrer to a Bill exhibited against his Clyent, in which supposed demurrer were many matters of fact, and other things frivolous and vain, the Lord Chancellor *Egerton* awarded five pound costs against the party. And ordered, that neither Bill, Answer, Demurrer, nor any other Plea should from henceforth be received under the hand of the said *Hill. 27 April. 1 Jacobi.*

Fines of copyholds how ordered in Chancery.

In the case of Tenant right, between *Musgrave* and some of his Tenants on the borders, The Lord Chancellor pronounced, that neither in Tenant right, nor in other Copyholds would he make any order for all the Tenants in generality, but for special men in special cases, nor for any longer time then the present, except it were by agreement between the Lord and the Tenants, which then he would decree, if it appeared reasonable, 8 Junii, 1 Jacobi.

Lease paroll.

Items, that he neither would help Leases paroll in Chancery; and that it was good for the Common-wealth, if no

no Lease parcel were allowed by the Law,
 nor promises to be proved by witnesses, Promises.
 considering the plenty of witnesses now Witnesses.
 a days, which were *testes diabolice, qui*
magis fame quam fama moventur. 8 Junii.
 1 Jacobi. *notam dedit non quod non*
 Lands given *ad divina Celebranda* by Proceed-
 Feoffment, till an Estate should be ing on the
 made by the Feoffees of them, for founda- Statute for
 ing a Chantry, and this in the 20 of charitable
 H. 6. and held no superstitious use, nor uses.
 by the Lord Chancellor, if it had been
 absolutely given *ad divina Celebranda* and
 for saying of Obites, for most part of
 the Churches of *England* are so founded;
 if it be granted to a Priest; *contra*, if it
 be granted to a particular Priest, *ad di-*
vina Celebranda and saying Obites, &c.
 The Case was, that those Lands were af-
 ter given to found a Chappel of Ease by
 the Feoffees, and then new come in upon
 the first grant, would have had it a con-
 cealment, and got a Patten thereof,
 and Commissioners upon the Statute
 39 *Elix.* took it from the Pattenree.
 And note, that the Commissioners make
 the decree; the Lord Chancellor hear-
 eth the exceptions against the said de-
 cree, and decreed the possession accord-
 ing to the Commissioners decree, leaving

the Pattentee to exhibite his Bill against the parishioners, and to shew what cause he could for reversing thereof, 18 Junii. 1 Jacob.

Lands intended to be given to a School after otherwise disposed by will.

George Littleton of the Inner Temple, lent money upon bonds taken in other mens names, and had not any in his own name; among the rest he purchased five markes *per annum* in two other mens names, with this trust, that he might enjoy it during his life, and after it should be to the erecting of a School in the Town where the said *George* was born and buryed, as the Feoffees declared in their answer; and in his life time, after the purchase, he repealed his intent of converting the same to the use of the School to divers others, but by his will he gave certain Acres of Land to I. C. and I. H. and then devised all the rest of his lands to his Brothers Son, who sues *Ceux que trust* for converting unto him the five marke land, which Justice *Warburton* presently decreed for him, saying his will was his Declaration. But in his words there was but a meaning onely exprest (*no contradicente*) for if I. C. make a Feoffment to the use over according to Articles annexed, he cannot alter the same by a later will,

will: *contra*, if it be to the use of his Will. 19 Junii, 1 Jacobi.

Cutting Clerk of the Outlawries bought lands of *Bedwell*, whereof he was seized as Tenant by curtesie, promising the Heir should assure at full age, and by mortgage assured other lands for performance thereof. *Cutting* before full age dieth without issue, his Heir not known, for some claimeth as Heir on the Fathers side, some as Heir on the Mothers side, others as assignees, by devise; and another as Executor sued a Statute for performance of Covenants; *Bedwel* being willing to assure, brought all into the *Chancery*, that he might incur no prejudice till he should know to whom he should assure; and ordered that he should assure to two of the six Clarks, they to reassure to the Heir when he should be found. 10 Octob. 1 Jacobi.

Nota that the Lord Chancellor *Eger-* No help
ton in the Case of *Pigot*, that if a power in *Chancery*
be reserved to make Leases by a Co-*ry* touch-
venant without transmutation of pos-*ing* power
session, the *Chancery* shall not help, be-*to* make
cause the first is void in Law, if upon Leases.
transmutation of possession, and the
power be not precisely followed, that
doubt-

doubtfull, and rather most strong against help; for then the Estate works and the power gone; and upon Wills no help: *causa patet antea, fol. 1.* and difference *inter* Will and Testament, Testament requires Executors, Will of Lands. 11 Octob. 1 Jacobi.

Decree against infants.

Young purchased lands in the name of one *Mason* to the use of him and his Heirs, dying without declaring any settled determination of this trust or confidence: *Dethicke* a kinsman procures *Mason* to convey the lands to him, and he conveys it over to infants; *Merick* a nearer kinsman sues in *Chancery*; as next Heir; if the benefit of the trust appear to appertain to *Mericke*, notwithstanding the conveyance to infants being decreed for them, they shall hold by the decree during the minority. And a proviso for the infants to assure at full age, *per Cook* Attorney *veniendo de Westm.* and there appearing no certain disposing thereof, it was ordered that *Mason* should repay the money he had for making the conveyance to *Dethicke*, and *Merick* to have the lands ordered for him. 11 Octob. 1 Jacobi.

Amending of answers.

Those who are curious to have the defendants to amend their answers, ordered

dered first by the Lord Chancellor to put in sureties in Court, for proof of the contents of their Bills according to the Statute, 15 H. 6, or *Juramentum Columnie* were better perchance. 13 Novemb. 1 Jacobi.

Commission to examine Witnesses, went out to Sir *Alexander Brett* and others, who made certificate against Sir *Alexander* of partial proceedings: *Phillips* Serjeant moved at the Rolls for a Commission to others to examine in whom the misdemeanor was, in Sir *Alexander*, or in the certifiers, & *suit negatum*, for such collateral certificates are not required of the Commissioners, but let them certifie the matters committed to their charge; and if there be misdemeanor, let the party wronged thereby make affidavit thereof, and then take out his Attachment. 13 Novemb. 1 Jacobi.

Misde-
meanor in
Commis-
sioners
how to be
reformed.

A release was offered to be depofed, Deeds that it had been seen by some at the Barr, it being affirmed that by casual means it was lost; but the Lord Chancellor said the oath should be, that he saw it sealed and delivered, and not that he saw it after it was a deed: For in *Munson* the Justice his Case, a Deed was brought

Deeds
how to be
proved.

brought into the *Chancery*, and a *Vidimus* upon it, being but a counterfeit copy; and after the fraud discovered, and the true Deed produced; therefore none allowance to be given of a Deed, without producing the Deed, or proving the execution thereof; and here appeareth what want we have of *Notaries* and their *Deputies*, 16 *Novemb.* 1 *Jacobi*.

Leases of
Corpora-
tions,
wherein
their
names are
mistaken
by them-
selves.

The Dean and Chapter of *Bristol* made sundry Leases misreciting the name of their Corporation, and an intricate Case of sundry such Leases made of one thing to divers men; wherein the Lord Chancellor said, that it was fit to help such Leases in *Chancery*, being for reasonable time, and upon good consideration; *contra*, of long Leases, without consideration of fine or good rent; and that Judges might have done well at the first to have expounded the Law so, with averment that they were the same parties, and so was the old Law till now of late, especially where the mistaking rose on their part who had the keeping of the evidences, the which the Leases could not see, but must take a Lease by the Colledge Clerk, in a Writ where you may have a new, no harm

harne to abate it for a misnomer ; and yet in that case sometimes in old times an Averment of *Comer per lieu nosme & l' auter* ; where they were sued by others , and not named so by themselves. 23. Novemb. 1. Jacobi.

Hanle had a Dutchy Lease gotten upon untrue surmises ; and the King bestowed the land upon the Earl of *Devon*, for his service done in *Ireland*. This Lease the Earl sought to avoid by the law ; *Hanle* prays to have the matter examined in *Chancery*, and to have the sute stayed by Injunction ; which was denied, for that the Lease was granted by fraud, and the Fee-simple to the Earl in possession and not in reversion : & *nota*, that the Lord Chancellor said, that where lands are granted in reversion, if the Grantee will avoid the lease for a rent paid, but not at the day, in that case he will relieve ; but not where the Lease is granted upon a false suggestion, for that were to relieve fraud in the *Chancery* : it was further objected, that this grant was made to the Earl upon consideration of service done ; and the Lord Chancellor said, that the service done to the Realm was as valuable, as if the Earl had given

Leases to
be holpen
in Chancery
against
Patentees.

500 l. for the Land, but the Earl offered to give the Leassee 1000 l. recompence in honour. 23 Jan. 1 Jacobi.

Chancel-
lor calling
the Judges
into the
Exche-
quer
Chamber
upon re-
mainders
of a Lease.

In a Case moved by Mr. Chamber-
lain, where the Lord Chancellor had
referred the matter to be tried at the
common Law touching remainders up-
on a Lease, whether good in Law or no,
and the Judges had given Judgment up-
on the case in another point in the Kings
Bench, so as the Lord Chancellor re-
mained still uncertain of that point,
called the Judges into the Exchequer
Chamber. 1 Jacobi.

Costs 3-
gainst the
defendant,
and Clerk
that made
process be-
fore a Bill
in Court.

For as much as the plaintiff hath ser-
ved process upon the defendant to ap-
pear in this Court, Return 15 Mich.
and exhibited no sufficient Bill against
him, and further for meer examination
sued out a Writ of Attachment against
the defendant, before the return of the
subpcena; it is ordered that the plain-
tiff shall pay unto the defendant 10 s.
costs; and also that *Hugh Tildesley*,
who made the process against the de-
fendant without a sufficient Bill, shall
pay unto the defendant other 10 s. for
his costs; *William Garneston* plaintiff,
Thomas Bradwell defendant. Anno 5
Hen. 6. Philip and Mary, fol. 11.

For

For as much as a Commission to examine witnesses in *perpetuam rei memoriam*, issued out of this Court, and the witnesses examined by vertue thereof have remained in Court by the space of a year, it is ordered that publication shall be granted. *Richard Gravenor* and *John Gravenor* plaintiffs, *Bryan Brearton* defendant. *An. 5* and *6 Phil.* and *Mary*, fol. 12.

Episcop. Cicestriens. publication of witnesses in *perpetuam rei memoriam*. *An. 5* and *6 Phil.* and *Mar.* fol. 30.

Willington plaintiff, *Agar* defendant, publication of witnesses remaining since 33 *H.8.* fol. 42. *Anno 5* and *6 Phil.* and *Mary*.

An Injunction is granted against the defendants, to deliver to the plaintiff certain Plate contained in their Petition, or else to appear and shew cause in *curr. anim. prox.* *Anno 5* and *6 Ph.* and *M.* fol. 13. *David Geoffry* and *John Geoffry* plaintiffs, and *Thomas Davis* defendant.

A decree is made for the plaintiff, as by the Record thereof signed with the Lord Chancellors hand plainly appeareth; and the said Record is delivered to *John Millicent* Attorney for the plaintiff

plaintant to be inrolled : the Dean and Chapter of *Lincoln* plaintiff, *Bevore* and *Alice* defendants. *Anno* 5 and 6 *Phil.* and *Mary*, fol. 15.

Dismissi-
ons, and
the man-
ner of en-
tring them

Glanffell plaintiff, *Strickley* defendant, a decree is made for the defendant for dismissal of the cause, as by the Record thereof signed with the Lord Chancellors hand ; and the same put to the inrolment. *Anno* 5 and 6. *Phil.* and *Mary*, fol. 22.

Oath
made for
serving a
Subpœna
before
witnesses
examined
in perpet-
ual me-
mory.

James Jervis hath made oath for the delivery of a Subpœna to the defendant, whereby he hath knowledge that witnesses are to be examined in perpetual memory ; so that he may, if he will, examine the same witnesses in this Court ; therefore the examinors in this Court may proceed to the examination of the said witnesses accordingly : *Hatcham* plaintiff, *Winchcombe* defendant. 5 and 6 *P.* and *M.* fol. 19.

Consil.

Commis-
sion to ex-
amine in
perpetual
memory.

Porter plaintiff, *Baker* defendant, the examiner may proceed to examination of witnesses in perpetual memory ; if the plaintiff have served a Subpœna upon the defendant, to give him notice to examine likewise, *An.* 5 and 6 *P.* and *M.* fol. 32.

Forasmuch as the plaintiff hath taken

taken oath in this court, that there are sundry witnesses contained in a Schedule exhibited in this court, which he desireth to have examined in perpetual memory, so impotent and sick, that they are not able to travel up to be examined in Court, without danger of their lives; therefore a Commission is awarded to Sir *Humphrey Bradburn* Knight, to examine the same witnesses in perpetual memory: *Bagshaw* plaintiff, defendant. *An. 5* and *6 P.* and *M. fol. 22.*

Robins plaintiff, *Foster* defendant, a Commission is granted to examine witnesses in the Countrey, being impotent, in perpetuall memory. *Anno 5* and *6 P.* and *M. fol. 26.*

The plaintiff is adjudged to pay to the defendant costs three pound, for that he was served to appear before the Lord Mayor of *London* to testifie in a matter depending before the said Lord Mayor, between the plaintiff, and one *John Gre-sham*, and others, without any precept directed from the Lord Mayor unto the said defendant to appear; *Row* and *Alice* plaintiffs, *Thomas Guybone* defendant. *An. 5* and *6 P.* and *M. fol. 24.*

E

John

Publicati-
on of wit-
nesses to
be used at
a Court
Baron.

John Manlye hath taken oath, the deposition of witnesses examined on the behalf of the plaintiff, and remaining in this Court, are to be given in evidence at a Court Baron holden at *Porton* in the County of *Bedford* on *Munday* next; therefore publication is granted: *William Manlye* Clerk plaintiff, *Thomas Simcoe* defendant. Anno 5. and 6 *Phil.* and *Mary.* fol. 24.

Injunction
to stay pro-
ceedings in
judgment,
or executi-
on.

An injunction is awarded against the defendant, to stay his proceedings in the Sheriffs Court of *London*, or elsewhere, upon debt of 100 l. not to proceed to trial, judgment, or to execution, if judgment be given. *John Ayland* plaintiff, *Francis Bacon* defendant. Anno 5. and 6 *P.* and *M.* fol. 29.

Fem sole
takes out a
Subpoena,
and then
mairryeth,
and serveth
it, she and
her hus-
band pay
costs.

Forasmuch as the plaintiff served process upon the defendant, by the name of *Margaret Hastings*, and at that instant was married to *William Brown*; and also for want of a Bill; therefore the said *William Brown* and *Margaret* are adjudged to pay to the defendant 20 s. costs, *Margaret Hastings* plaintiff, *Nicholas Jugges* defendant. An. 5. and 6. *P.* and *M.* fol. 30.

Forasmuch as the Sheriffe of *Denbigh* hath returned a *Languians* in prison, there-

therefore a Commission is awarded to *Richard Griffeths* and others, to take the answer of the defendant: *John ap Thomas* plaintiff, *Engbarard Hoell* widdow defendant. *an. 5* and 6 P. and M. fol. 33. Commis-
sion to take
the defen-
dants an-
swer upon
a *languidus*
returned.

Forasmuch as the defendant was in possession of the lands at the time of the Bill exhibited, and the plaintiff hath since entered; therefore an injunction is granted to the defendant against the plaintiff, to avoid the possession. *William Hawkes* and *Jennit* his wife plaintiffs, *John Champion* and others defendants. *an. 5* and 6 P. and M. fol. 35. Injunction
to put the
defendant
in such pos-
session as
he had at
the time of
the Bill
exhibited.

It is ordered, the plaintiff shall between this and *Fryday* next, bring into this Court a certificate from the officers of the *Queens house*, or otherwise; whereby this Court may credibly understand, that his attendance in Court is necessary and that he cannot conveniently be absent; or if he cannot so do, then the matter is remitted to the determination of the Commissioners in the marches of *Wales*. *Philip Mannering* plaintiff, *Henry Smallwood* and *Alice* defendants. *an. 1* Eliz. fol. 51. Jurisd. & i-
or of *Wales*
rej. & c.

Mannering plaintiff, *Smallwood* and *Alice* defendants, for want of a certificate, Confil.
E 2 that

that the plaintiffs attendance in Court is necessary, the cause is dismissed into the marches of *Wales*. anno 1 Eliz. fol. 62.

Injunction
to stay suit
of execution
of land
which he
agreed not
to do.

The plaintiffs husband was bound in a Statute of 160 l. to pay 160 l. and after by Indenture the defendant did grant unto the plaintiffs husband, that if he failed in the payment of the said 160 l. the same should be levied of certain lands, then the said plaintiffs husbands lands, called *Stirbeck*, and some other lands specially named lying in *Hawthorn* in the County of *Lincolne*; the husband dyed, and the defendant sued execution as well of other lands in the occupation of the plaintiffs late husband, as of the said lands mentioned in the Indenture. And Sir *Nicholas Bacon*, Lord Keeper of the great Seal of *England*, granted an injunction against the defendant immediately to remove from the possession of all the other lands, except of those onely contained in the Indenture; and that he should quietly suffer the plaintiff to enjoy the same: *Margaret Pulvertost* widdow plaintiff, and *Gilbert Pulvertost* defendant. anno 1 Eliz. fol. 51.

An Injunction was granted to the plaintiff, upon the surmises of his Bill, with this clause (*si ita sit*) that the plaintiff be in possession by good conveyance in Law as he alleadgeth, *Nata* it was then usual to grant Instructions upon surmises, with a proviso (*si ita sit*) *Fodringham Christopherus* plaintiff, *Richard Chomely* defendant. *Anno 1 Eliz.* fol. 67.

Forasmuch as the defendant is under age, and by inspection not above the age of fifteen years; therefore *George Wyat* is by this Court named, and appointed Guardian to the defendant: *Hugh Langley* plaintiff, and *Philip Mark* defendant, *Anno 1 Eliz.* fol. 73.

A Commission is awarded to the Sheriff of *Nottingham*, and *Derby*, to put the plaintiff in possession of certain lands, for which he formerly had an Injunction against the defendants, which they have disobeyed: *William Boles* plaintiff, *Richard Walley* and *Alice* defendants, *Anno 1 Eliz.* fol. 84.

The defendant is enjoined in open Court, upon pain of 200*l.* not to proceed any further in an action upon the case, by him commenced in the Kings Bench against the plaintiff, nor that

he procure the Jury to be sworn in the issue, but onely to record their appearance until to morrow; at which time further Order shall be taken by the Court; *George Riche* plaintiff, *Edmond Foard* defendant. *Anno 1 Eliz.* fol. 88.

Attach-
ment a-
gainst the
defend-
ant, and a
subpœna
against
one suppo-
sed to beat
the server.

Upon information the defendant disobeyed a writ of subpœna brought to be served against her, and that they which should have served the said writ, were beaten and wounded; therefore an Attachment was granted against the defendant, and a subpœna against *Edmond Pirton*; returned immediate: *William Rove* and *Rose* his wife plaintiffs, *Agnes West* widdow defendant. *Anno 1 Eliz.* fol. 90, and 97.

The
plaintant
was in ex-
ecution at
the suit of
the King,
and being
no just
cause
therefore,
he was de-
livered by
superfede-
as.

Where the said *Edward Pyke* hath of long time been, and yet is in execution upon a Statute, at the suit of the late King *Edward* the Sixth; forasmuch as upon the examination of the matter before the Lord Keeper of the Great Seal of *England* in open Court, it manifestly appeareth, that there was not just cause why the said *Pyke* should remain in execution, as *Gilbert Gerrard*, and *Rosewell* Esquire, the Queens Majesties Attorney, and Solicitor General, being present, did confess and agree;

It

It is therefore now ordered, that a Writ of superſedeas be directed to the Warden of the Fleet, in whoſe cuſtody the ſaid *Pyke* now is, commanding him by the ſame, ſothwith upon the receipt thereof, to deliver out of priſon the body of the ſaid plaintiff; provided always before his deliverance he be bound to her Majeſty by Recogniſance in 100 l. not onely to make his further appearance to answer her Highneſs any thing hereafter ſhall happen to be laid to his charge concerning the ſaid execution; but alſo to ſtand to, and obey all ſuch order and determination as the ſaid Lord Keeper of the Great Seal and this Court ſhall hereafter take in the matter in variance between him and the ſaid *Graunt: Edward Pyke* plaintiff, *Robert Graunt* defendant. Anno 1 Eliz. fol. 166.

Pakine the Husband onely appeared, The Hiſſe
and put in a demurrer in both their band and
names, without oath of impotency, or Wife de-
otherwiſe, for non-appearance of *Joan* h: onely
his wife; whereupon an Aratchment is pears
awarded againſt the defendants: *Thomas* and de-
Spicer and *Katherine* his wife plaintiffs, tachment
John Pakine and *Joan* his wife defend- againſt
ants, Anno 1 Eliz. fol. 170. both.

A demurrer put in, and the defendant appeared not in person, a Subpœna to make direct answer. Attorney at Law enjoined not to proceed or call for Judgment.

An Injunction granted for not appearing and to stay proceedings at the common Law.

Thomas Hodge Plaintiff, *William Smith* Defendant; the Defendant demurred by his Counsel not appearing in person, therefore a Subpœna was awarded against him to make a direct answer. *An. 1 Eliz. fol. 230.*

John Jackson Attorney for the Defendant, at the common Law is in open Court enjoined, that neither he, nor any other by his means, do further proceed in an action of trespass commenced against the Plaintiff, and depending at the common Law, nor call for Judgment, until further order shall be therein taken by the Lord Keeper of the great Seal of *England*, and high Court of *Chancery*: *John Sedgewick* and *Alice* Plaintants, *Will. Redman* Defendant. *Anno 1 Eliz. fol. 212.*

The Plaintiff served the Defendant with a Subpœna to appear in *Chancery*, whereof he made oath; and because the Defendant did not appear, an Injunction was awarded against the Defendant, his Councillors and Attorneys, upon pain of 200 *l.* not to proceed in Judgment in an action of debt of 40 *l.* in the common Pleas against the Defendant. *An. 1 Eliz. fol. 213.* *Thomas Knot* Plaintiff, *Thomas Jackson* Defendant.

David

David Eyre was served with a Subpœna *ad testificandum* for the plaintiff in a cause depending in this Court, and Thomas Eyre made oath, that the said David Eyre was, at the serving of the said Subpœna upon him, and yet is, so sick, that he is not able to travel hither to testify; therefore a Commission is granted to such Commissioners as the Plaintiff will nominate to examine him: John Wade Plaintiff, Gwyne and Alice Defendant. *an. 1 Eliz.* fol. 240.

A Commission to examine witnesses upon oath of impotency.

An Attachement was awarded against the defendant for his not appearance upon oath, he was served with a Subpœna, who now appeared *gratis*, and would have excused himself, that he had no notice of the Subpœna; but he that served the Subpœna deposed, he did hang the same upon the Defendants door, and within half an hour after, saw him abroad with a writ in his hand, which he supposed to be the Subpœna; therefore he is committed to the Prison of the Fleet: Bernard Richers Plaintiff, Thomas Stillman Defendant. *Anno. 1 Eliz.* fol. 249.

A defendant appearing *gratis*, an Attachement being out, was committed

The Defendant was served with a Subpœna the day of the return; and for his not appearance an Attachement was the return.

The defendant served with a Subpœna the day of the return.

was awarded against him, and upon oath that he was served six-score miles off, so as he could by no possibility appear, therefore a Commission is awarded to take their Answers in the Countrey, paying the plaintiff 6 s. 8 d. for his costs: *Henry George* plaintiff, *Henry Bolington* and *Joane Deane* defendants,

(fol. 255.

? 1 Eliz.
An Injunction to discharge an execution, for that the defendant being served did not appear

An Injunction is granted to discharge an execution by *Elegit* taken by the defendant out of this Court, for that he being served with a Subpoena did not appear: *William Hobby* plaintiff, *Francis Kemp* defendant. Anno 1 Eliz. 274.

X
A witness served to testify, pressed for a Souldier, Attachment is stayed.

The plaintiff served one *Rolfe* with a Subpoena *ad testificandum*, and after he was served, before he could be examined, *Rolfe* was pressed for a Souldier; upon oath made hereof, Attachment was stayed: *Richard Humble* and *Anne* his wife plaintiffs, *William Malbe* defendant. Anno Eliz. fol. 3.

? 2
Injunction (*si ita sit*) to stay Judgment and Execution.

The plaintiff sets forth by his Bill, that where there was a suit depending in the Dutchy Court, between the defendant and *Christopher Aschugh* his Brother, for certain Lands; It was agreed, and the plaintiff was bound to the

the defendant in 100 l. that the said *Christopher* should become bound by Obligation in the sum of 100 l. the tenth day of *June* following, and should then also make unto him a release; and the defendant was also bound by Obligation in 50 l. to pay the said *Christopher* a sum of money the 9th of *June* in the Parish Church of *Dale*. And because both the dayes of performance of the conditions of the said several Obligations were so near together, therefore it was agreed, that when the defendant paid his money, the said *Christopher* should make his Bond and release; and sheweth that the 9th day of *June*, the defendant came not himself, but sent his servant to pay the money; and *Christopher* was there ready to make the bond and release to the defendant, and offered to deliver the same to the defendants servants, but they refused to accept thereof; and afterward the said *Christopher* offered the same to the defendant, but he likewise refused to receive the same, and yet puts the plaintiffs bond of 100 l. in suit in the Kings Bench; hereupon an Injunction is granted with a clause (*si ita sit*) to stay all further prosecution of any action in any
the

Injunction to stay proceedings before action brought.

the Queens Courts at the common Law, or elsewhere, upon the bond of 100 l. against the plaintiff; and also the taking of any *Nisi prius*, or Judgment, or execution upon Judgment, if Judgment be already given upon the same Bond, until the Defendant have made a perfect Answer, and the Court take other order: *Aschughe* Plaintiff, *Skelton* Defendant. Anno 2 Eliz. fol. 9. & 12.

A Commission to the examiner of the Court to examine witnesses.

A Commission is awarded to *Thomas Ward*, one of the examiners of this Court of *Chancery*, for the examining of witnesses in perpetual memory, in which Commission the Defendants may examine, if they think good: *Barentine* Plaintiff, *Harbert* and *Alice* Defendants. Anno 2 Eliz. fol. 46.

A Subpoena to appear before the Major and Aldermen of London, for an Orphans Portion.

The Defendant was bound by Recognizance to the Chamberlain of *London*, for payment of divers sums of money for Orphans portions; and departed out of this City, and dwelt in *Oxfordshire*, leaving no Estate behinde him in the City; so as the process of the City cannot take hold; therefore a Subpoena is granted against him upon pain of 100 l. to appear before the Major and Aldermen, and to stand to their Order; Major and Aldermen of *London* Plaintants,

rants, *John Dormer* Defendant. Anno 2 Eliz. fol. 5. Afterwards fol. 67. ordered, if he do not appear, an Attachment is granted.

Sir *Humphrey Brown* Knight, one of the Judges of the common Pleas is Plaintiff against the Defendant; and an order is made for bringing in and delivery into the Court of certain evidences: Sir *Humphrey Brown* Knight, Plaintiff, *Thomas Smith* Defendant. Anno 2 Eliz. fol. 53.

Nota that dismissions were entred at large, Anno 2 Eliz. fol. 55, and fol. 56. A decree was entred at large in the Registers Book; which be the first I find entred at large in that kind, and so after divers others.

The Defendant appeared upon a Subpoena, and answered the Plaintants Bill, and after attended upon the Lord Keeper, for a matter in controversie between him and one *Ellin Wryne*; and in the mean time being arrested in London, at the suit of one *Anthony Brisket*, contrary to the order and priviledge of this Court; it is therefore ordered, That a Subpoena of priviledge be granted to the Major and Sheriffs of London for the discharge of the said arrest: *Rich.*

Dutton

An Order for bringing Evidences into Court.

Decrees and dismissions entred at large.

A Writ of priviledge granted to a tutor.

Dutton plaintiff, *Will. Alersey* defendant,
Anno 2 Eliz. f. 58.

X The Sheriff amerced 5 l. for return non est inventus, upon an Attachment awarded against *Roger Williams*, who is a Justice of Peace, and as is informed, was at the last Quarter-Sessions holden for the same County; therefore the Sheriff is amerced five pounds: Sir *Thomas Stradling* Knight plaintiff, *William Earl of Pembroke* defendant. *Anno 2 Eliz. fol. 84.*

The Attor- The Defendants Attorney at Law
 ney ordered was enjoined to stay his proceedings at
 ed to stay Law against the plaintiff in an action
 proceed- of trespass. And notwithstanding this,
 ings, the the defendant himself proceeded and
 defendant got Judgment, and took out a *levari*
 proceed- *facias* against the plaintiff; and an
 eth; Injunction was granted against the de-
 junctio- fendant himself, to stay the execution
 to bring in of the same Writ of *levari facias*; or
 the money if he had executed it, and levied
 levied, and the damage and costs, that then he
 to answer should bring all the money thereup-
 the con- on received into the Court of Chan-
 tempt. cery in *Grastina Ascensionis Domini*, to
 be disposed of as the Court shall think
 fit; and yet notwithstanding himself
 should

should be then present in Court to answer the contempt: *John Segewick* plaintiff, *William Redman* defendant. *An. 2 Eliz.* fol. 92.

The Defendant was in possession at the time of the Bill exhibited, and the plaintiff entred upon him after the Bill; therefore an Injunction for the defendant against the plaintiff: *William Dombey* plaintiff, *John Perrot* defendant. *An. 2 Eliz.* fol. 99.

An Injunction was granted against the defendant upon pain of 100 *l.* that he should not prosecute an Action of debt of 5 *l.* or any writ of *Nisi prius*, Jury, Judgment, or execution of Judgment, if Judgment be given, before the Justices of either Bench, untill speciall license be given by this Court: *Thomas Stanbridge* plaintiff, *Thomas Hales* defendant. *An. 1 Eliz.* fol. 103.

Forasmuch as it is informed, the attyal of the truth of the matter resteth altogether in the Declaration of the defendant; it is therefore ordered that the defendant shall be examined upon interrogatories to be ministred by the plaintiff, upon whose examination if the matter fall not out for the plaintiff,

Injunction for the defendants possession.

Injunction to stay all proceedings at common Law.

The defendant examined upon interrogatories, and if the matter appear not for the plaintiff, then he to pay costs, and the cause dismissed.

tant, then the plaintiff to pay the defendant costs, and the cause to be dismissed: *John Fyfield* plaintiff, *John Vimore* and *Alice* defendants. *an. 2 Eliz.* fol. 122.

Defendant dismissed with costs, the plaintiff not appearing at the hearing. The plaintiff at the day appointed for hearing appeared not, therefore the defendant is dismissed with costs: *Richard Fincham* plaintiff, *William Backwood* defendant. *Anno 2 Eliz.* fol. 125.

Decreed that the defendant shall acknowledge satisfaction of a Judgment. The Defendant notwithstanding an Injunction delivered unto him, got a Judgement upon an action of debt in the common Pleas; and decreed upon the hearing of the cause that the Defendant shall within 14. days next after the decree, resort to the Record in the common Pleas, whereupon the said judgement is entered, and there to confess of record a full satisfaction of the said Judgment. *Nota* the action of debt in the common Pleas was, for not delivering to the Defendant a Statute, which by the depositions of witnesses, appeared to be delivered, and by the Clark of the Staples certificate, the record was discharged: *Nicholas Colverwell* Plaintiff, *Ralph Bonge* Defendant. *anno 2 Eliz.* fol. 126.

It is decreed, the Plaintiff, his heirs and assigns, and his or their Farmors of the said Farme or Tenement called *Stables*, shall from henceforth hold and enjoy, as appendant to the same Farme or Tenement called *Stables*, all the same Fould-course, or common of pasture, for the full number of 300 sheep within the said fields of *Wentforth* alias *Wentford*: *Basill Fielding* and *Alice* Plaintants, *Thomas Wren* Defendant. *Anno. 2 Eliz. fol. 137. and 155.*

A decree for a fould-course, or common of pasture.

The Plaintiff exhibited his Bill, thereby shewing that there is question and controversie between two Defendants, for the reversion of the Mannor of *Aldwell*, which he holdeth for years by Lease, made there-ofto him by one *Anthony Marmyon*, and that he doth not know to which of them the rent and reversion is due; and therefore desireth, that upon payment of his rent into this Court, according to the Covenants and articles of his lease, he may be discharged, and saved harmless from molestation, suite, and trouble for the same rents by the Defendants, or either of them; wherefore it is ordered, an Injunction be a-

Two defendants contend for a Tenement; the Tenant paying his Rent into the Chancery is discharged.

warded against the Defendants, not to molest the Plaintiff for his said rent during the said contention, so as the Plaintiff pay his rent into this Court: *John Almete* Plaintiff, *Christopher Bettam*, and *Edmond Marmyon* Defendants. *an. 2 Eliz.* fol. 141.

Setting down depositions in a wrong sense suppressed, and the witnesses examined again.

Upon hearing of the matter, three witnesses examined by Commission did in open Court depose, that the Commissioners have set down their depositions otherwise then they did depose; therefore it is ordered those depositions shall be void, and the same witnesses shall be examined again: *John Peacock* Plaintiff, *Edward Collens* Defendant. *An. 2 Eliz.* fol. 146.

Injunction for the plaintiffs possession as at the time of the Bill, and three years before.

For that the Court was credibly informed, the Plaintiff was in peaceable possession at the time of the Bill exhibited, and three years before, an Injunction is awarded: *John Sapcott* Plaintiff, *William Newport* Defendant. *an. 2 Eliz.* fol. 173.

An Award made by Justices of Assize ordered to be performed.

The suite was concerning the custom of Tenant right for Lands in *Dent* in the County of *York*; and for that both parties confessed, that Justice *Dallison*, and Serjeant *Rastall*, Justices of Assizes in that County, had made

made an award in the cause between the parties, therefore it was decreed that both parties should perform it; and an Injunction is granted to either party against the other for that purpose: and where an Injunction was the last Term granted against the Defendant for stay of execution upon a Judgment in the common Pleas; it is ordered the said Injunction shall stand in force, and the Defendant shall obey the same, and the Defendant shall answer the Plaintants Bill: *William Burtet*, and *Alice* Plaintants, *William Redman* Defendant. *an. 2 Eliz. fol. 174.*

It is ordered, the Injunction formerly granted against the defendant, for stay of his action in the Kings Bench be dissolved, and the Defendant to be at liberty to take Judgment upon his action of debt of 500^l Provided if the Plaintiff do bring into court on *Munday* next, 223. l. then execution for the rest is to be suspended untill this Court take other order: *Thomas Stanebridge* Plaintiff, *Thomas Hales* Defendant. *an. 2 Eliz. fol. 176.*

Injunction to stay suits if the plaintiff bring 223 l. into court; execution to stay for the rest.

Witnesses examined by commission before answer, in regard they were old.

The Plaintiff exhibited his bill in this Court, and before the Defendant answered, had a Commission to examine

his witnesses, upon pretence the witnesses were old and in danger to dye: *Sir Radnus Bagnold, Miles* plaintiff, *Green* Defendant. anno 2 *Eliz.* fol. 178.

The plaintiff after Bill, answer, and replication, distraineth, for which an Injunction is granted. The Defendant first exhibited her Bill in this Court, for land conveyed to her in jointure, and evidences of the same land, and after did molest the same Plaintiff by distresses, after answer and replication put into this Court; therefore an Injunction is granted: *Richard Kidnere* Plaintiff, *Agnes Harrison* Defendant. an. 2 *Eliz.* fol. 173.

Certiorare to remove the suit from the Chancery of *Durham* into this Court.

The Plaintiff setteth forth, that his Father and he are joyntly seized for life of the Lordship of *Barrington* in the County *Palatine* of *Durham*; and that the Defendant sues his Father for those lands before the Chancellor of *Durham*; and for that it was informed that the Plaintiff dwelleth in *Ratcliffe*, in the County of *Middlesex*, and that the Plaintiffs Father is an old diseased man, and not able to follow his suite; therefore a *Certiorare* is granted, directed to the Chancellor of *Durham*, to certifie into this Court the whole matter depending

ing before him : *William Hilton* and *Alice*
 plaintiffs, *Robert Lawson*, and *William*
Lawson defendants. Anno 2 Eliz. fol.
 200.

The plaintiff being son and heir to
 his Father, who died *intestate*, entred
 into the house whereof his Father died
 seized in Fee, and possessed himself of
 certain small parcels of goods, to the
 value of 5s. of his Fathers goods who di-
 ed *intestate*; and the defendant having an
 Obligation of 400 l. made by the Father
 unto him, for performing the covenants
 of an Indenture, sued the Son as Exe-
 cutor to his Father (who died *intestate*)
 and upon the testimony of some witnes-
 ses, that the plaintiff had sold or given
 away the said small parcels of goods, a
 verdict passed for the defendant for the
 whole 400 l. which appeared by Cer-
 tificate of the Justices of Assizes ; and
 thereupon an Injunction was granted
 to stay Judgment, and all other acti-
 ons to be commenced by the defen-
 dant against the plaintiff upon the
 same Obligation, until the matter be
 heard, or otherwise determined by the
 Court : *Edward North* plaintiff, *George*
Kelewich defendant. Anno 2 Eliz. fol.
 237.

Injunction to stay
 judgement upon cer-
 tificate of
 the Justices of As-
 sizes.

Injunction dissolved if cause be not shewed.

It is ordered, if the Defendant shew not cause on *Friday* next, then the Injunction before granted for the Defendant against the Plaintiff, to stay his Execution in the Kings Bench, shall be dissolved, or else the money for which the Plaintiff lieth in Execution at the Defendants suit shall remain in his hands, in part of payment of such money as is due unto him by the Defendant; and afterwards upon *Friday* because the Lord Keeper did not sit in Court to hear such cause as was offered, further day was given, and afterwards the Plaintiff was left at liberty to call for Execution upon the Judgment, because the Defendant shewed no cause: *Thomas Hales* Plaintiff, *Thomas Stancbridge* Defendant, *Anno 2 Eliz.* fol. 244.

Injunction to stay the defendants suit at Law, because he began in Chancery

The Defendant exhibited his Bill in to the *Chancery*, for certain Lands, and afterwards sued the Plaintiff in the Common Pleas for the same Lands, before the matter was determined in the *Chancery*; therefore an Injunction was awarded against the said *Body*, to stay his proceedings in the common Pleas: *Robert Bill* and *Thomas Gifford* Plaintiffs, *John Body* Defendant. *Anno 2 Eliz.* fol. 263.

The

The Under-Sheriff of *Middlesex* brought into this Court the body of the Plaintiff, by commandement of the Lord Keeper, in execution upon a Writ of extent of 300 *l.* together with the said Writ, at the suit of Sir *Edmond Maliverer* Knight ; and by order of Court he was taken from the Sheriff of *Middlesex*, and delivered in execution to the Warden of the *Fleet* for the 300 *l.* and because the Defendants shewed no good cause to the contrary upon a day given them ; therefore it was ordered, that upon Recognizance by the Plaintiff, and good sureties, to stand to the Order of the Court, or else to yield his body prisoner to the *Fleet* in execution, and there to remain until the Defendant be satisfied, he the Plaintiff shall have liberty to go at large ; and that the Defendant shall not sue for any manner of Execution, by force of the said Execution : *Robert Rosse* Plaintiff. *Christopher Lassels* and *Alice* Defendants. *An.* 3 *Eliz.* fol. 90.

The plaintiff being in execution upon a Statute, was delivered upon Recognizance.

The plaintiff had execution for 300 *l.* and ordered to take execution for 100 *l.* only.

The Plaintiff had Judgment in the Kings Bench against the Defendant upon a Bond of 200 *l.* and another Judgment for 300 *l.* upon an action of debt of arrearages of account in the

Kings Bench; and ordered, they may proceed with execution upon the Bond of 200 *l.* and also to take execution of 100 *l.* parcel of the 300 *l.* provided always, and it is ordered, the Plaintiff shall not in any wise proceed, nor take execution of the 200 *l.* residue of the 300 *l.* recovered upon the accompt, without special license of the Court: *John Brooke* and *Katherine* his wife Plaintants, *Thomas Apprice* Defendant. Anno 3 Eliz. fol. 233.

A devilaica removendo,
for part of
a parsonage, and
an Injunction for
the house.

The Plaintiff sheweth by his Bill, that the Parsonage of *Thekelye* was holden by force, whereby the Plaintiff could not be inducted; whereupon a Writ of *devilaica removenda* was awarded out of this Court, and thereby the Plaintiff put in possession by the Sheriff: nevertheless the Defendant keepeth the possession of the said house appertaining to the Parsonage; and for that the Plaintiff is bound to pay his first-fruits to the Queens Majesty, therefore an Injunction is granted against him: *Thomas Boul* Clerk plaintiff, *Sir George Blunt*, *Miles* and *Alice* defendants. Anno 3 Eliz. fol. 262.

Injunction for the
corn sowed upon a
lease parrell.

The Plaintiff made Title to the lands by a Lease paroll made by the Defendant

pendant unto him, whereupon he did sow the ground with Corn, and the defendant entred upon him; therefore the plaintiff had an Injunction for the Corn: *Thomas Harrison* plaintiff, *Richard Chomeley, Miles and Alice* defendants. Anno 3 *Eliz.* for three hundred pound.

It is decreed, the defendant and his Heirs shall from time to time yearly pay to the plaintiff and his heirs, Lords of the Manor of *Knebworth*, the rent of 3 s. 4 d. for the peece of ground called the *Hawte*, together with the arrearages thereof since the 6. of *Ed.* the 6. And shall from henceforth do suit and service to the Court of the plaintiff and his Heirs, owners of the said Manor; and the plaintiff and his Heirs shall have and receive the fines and amerciaments presentable in the Court of the Manor, for any trespass, or lack of service done by the Tenants of the said *Hawte*: *Richard Litton* plaintiff, *John Couper* defendant. An. 6 *Eliz.* fol. 145.

Decree for
3 s. 4 d.
rent ser-
vice and
suit of
Court.

It is Ordered a Subpœna be awarded against the defendant to be examined upon interrogatories, whether before his Answer he had knowledge that

The plain-
tant mar-
ried be-
fore an-
swer, and
no advan-
tage ta-
ken, there-
fore no
Bill of re-
vivor.

that the Plaintiff was married, and would take no advantage of the same marriage in his Answer, then the matter to proceed without Bill of revivor; *Christian Fairefield Plaintiff, Robert Greenfield Defendant. An. 6 Eliz. f. 150.*

Advowson
passeth not
by livery,
within
view of the
Church
without
deed, there
being in-
cumbent.

The question of the case drawn was, whether the advowson in question did pass by the livery made in the view of the Church without deed or not (the Church being full of an incumbent) and resolved by the Lord chief Justice of the Kings Bench, and Justice *Manwood*, to whom the same was referred, that the Advowson could not pass by that livery: *Pannell Plaintiff, Hodgson alias Hodson Defendant. Anno 18 and 19 Eliz.*

*A ducens
tecum to
bring in
deeds, but
ordered to
be deliver-
ed to the
Usher of
the Court,
not to the
Plaintant.*

A Subpoena *Ducens tecum* was awarded against the Defendant to bring in certain deeds, and to shew cause why the same should not be delivered to the Plaintiff; the Defendant by his Counsel shewed, that the Mortgage was upon condition for payment of 40 l. at a day; and before the day, the Mortgager sold the same over to the Plaintiff, and delivered the Estate by livery and seizin, whereby the condition was extinct; and yet the Defendant offered

ferred to give for the same 100 l. It is ordered that the evidences be delivered to the Usher of the Court, but not to the Plaintiff, without special order: *Wilford Plaintiff, Denny Defendant.*
Anno 18 & 19 Eliz.

The Plaintiff exhibited his Bill to be The Defendant relieved for a promise, supposed to be made by the Lady *Lutterell* for a Lease of certain Lands, and for stopping certain wayes; the Defendant had a Commission to take her answer, and demurred, for that the Plaintiff may have his remedy by Law; which cause seems insufficient, and not to be allowed of; and the rather, for that the Defendants having a Commission to take their answers in the Countrey did demurre; therefore a Subpœna is awarded against them to make a better answer: *Stukely Plaintiff, the Lady Lutterell & alii Defendants.* *Anno 18 and 19 Eliz.*

Stephen Smith made oath, that he was present when one *John Maddock* made these persons hereafter named privy to a Writ of Execution, upon a decree made for the Plaintiff, viz. *John Ward, John Priddock, Henry Pinly, Lawrence Banks, John Kiddermaster, and William* Attach-
ment for not performing a decree.

liam Tuttle ; and the said *Maddocks* left the same Writ with one *Thomas Smith*, from whom the Defendant confesseth the receipt of the said Writ, which said parties have not performed the said decree ; therefore an Attachment is awarded against them : *Leake* Plaintiff, *Marrow* Defendant. Anno 18 and 19 *Eliz.*

The Defendants Executors to their Father being Guardian in Socage to the Plaintiff, are ordered to answer for profits taken by him.

The Bill is against the Defendants as Executors to their Father, who in his life time being Guardian in Socage to the Plaintiff, in right of the Plaintants mother, whom he married, for and concerning profits by him taken of the lands of the Plaintiff during his minority, for fines of Leases, Woodsales, and wilfull decay of houses, and doth aver assets sufficient to become to their hands ; the Defendants demurre, because not privy, nor chargeable by Law ; but ordered to answer : *Burgh* Plaintiff, *Wentworth* Defendant. Anno 18 and 19 *Eliz.*

Subpcena delivered to the Defendants wife in his house sufficient.

Thomas Stapleton made oath, that he delivered a Subpcena to the Defendants wife, being in the Defendants house, who hath not appeared ; therefore an Attachment is awarded : *Barlow* Plaintiff, *Baker* Defendant. Anno 18 and 19 *Eliz.*

It

It is decreed by Assent, that the Defendant being Lord of the Manor of *Alderswasley*, shall have for a fine of a Copyholder upon a Surrender, one whole years value, as the same is reasonable worth, according to the usual rates of Lands in that Countrey: *Blackwall* and *Alice* Tenants of the Manor of *Alderswasley* Plaintants, *Low* Defendant. Anno 18 and 19. Eliz.

The Defendant confesseth by her answer, the having of a Tablet or Pomander in Gold, demanded by the Plaintiff; and as to the 20. l. likewise demanded by the Plaintiff, by him left with the said Defendant as a token, at such time as he was a suitor for marriage to the Defendant, she confesseth the same was left with her against her will, and she delivered the same over unto one *Sydole* her brother, who was a dealer with her on the Plaintants behalf, to the end he should deliver the same over to the Plaintiff. It is ordered, the Tablet be forthwith delivered by the defendant to the Plaintiff, which was done presently in Court; and as to the 20 l. the Plaintiff shall call in the said *Sydole* by process: *Young* plaintiff, *Burrell & Elizabeth* uxors defendants. an. 18 and 19 Eliz.

The

A Bill against a Copy of Court Roll indirectly entered, the defendants demur, but ordered to answer.

The Plaintiff by his Bill sheweth, that the Copy of the Court Roll where by the Defendants pretend title, was indirectly entered by the Stewards' Clerk of the Manor; the Defendants demurre, for that the Plaintants shall not be received by surmise to object against, or impeach the said Court Rolls; and alledged further, the Copy was found by the homage to be true, which causes seem to this Court very insufficient: It is therefore ordered, if cause be not shewed before *Wednesday* for maintenance of the demurrer, then a Subpcena is awarded against the Defendants to make answer: *Holden and Holden* Plaintants, *Clerk* and *Alice* Defendants. *an.* 18 and 19 *Eliz.*

Variance in a Bill of Revivor from the first bill dissolved.

The Plaintiff hath exhibited his Bill of Revivor against two, where the first Bill was against three; and the personage in question is named by another name then in the former Bill; therefore ordered, if cause be not shewed by a day, the Defendant shall be discharged: *Heines* Plaintiff, *William Day* Dean of *Windfor* and *Hatchines* Defendants. *Anno* 18 and 19 *Eliz.*

Wil-

William Longher appeared and answered, but *Robert Longher* claimed the priviledge of the University of *Oxford*; but because the said Doctor *Longher*, was joyned with *William Longher* in the Bill, who was not subject to the same Jurisdiction; therefore ordered procefs to be awarded against him, to shew other cause why he should not answer: *White* Plaintiff, *Robert Longher* Doctor of Divinity, and *William Longher* Defendant. an. 18 and 19 *Eliz.*

The Defendant is adjudged to pay to the Plaintants 40 s. costs, for suing out processe of contempt against him, being discharged by her Majesties general pardon: *Jones* and *Parris* Plaintiff, *Jones* Defendant. an. 18 and 19 *Eliz.* There is more presidents of the like case.

Walter Jeames made oath, that he hanged a Subpcena on the door of one *Stacy Barry* widdow; and that the Defendant used to resort thither, as he heard reported before that time, who hath not appeared; therefore an attachment was awarded: *Jeames* Plaintiff, *Morgan* Defendant. an. 18 and 19 *Eliz.*

The Plaintiff exhibited his Bill against

Witnesses
examined
by fraud
suppressed,
and the
practizers
to be pro-
ceeded a-
gainst by
Bill.

gainst the defendant, by practise of purpose to examine witnesses, and did examine witnesses accordingly, where- as the cause chiefly concerned one *Thomas Staunton*, and *William Bayles*; and therefore ordered, that the depositions should be suppressed, and that the said *Staunton* and *Bayles* shall exhibite a Bill into this Court, against all such as they think to be parties to the fraudulent abusing of this Court: *Walford* plaintiff, *Walford* defendant. anno 19 Eliz.

Jurisdiction
on of *Lancaster* al-
lowed.

It is informed, that the parties dwell in the County Palatine of *Lancaster*, and the matter of the Bill is for a supposed trespasse, in entring upon the Defendants lands, and consuming his grasse and hay upon the same, which this Court doth not use to hold Plea of; therefore ordered, if it be true, then the cause is dismissed, and the plaintiff to take his remedy in the County Palatine of *Lancaster*: *Hametheson* plaintiff, *Tounstall*, *Covell*, *Rigmaden*, and *Baldwin* Defendants. an. 19 Eliz.

Suit to
have the
defendant
perform an
award.

The plaintiffs suit is to have an award made (by Master *Tilbey*, and Mr. *Chambers*, Arbitrators indifferently chosen)

chosen) performed, and both parties were bound each to other for the performance of the award; and one part of the award was, that if any question did grow between the parties, the arbitrators should end it; it is ordered, a Subpœna to shew cause: *Lancelot Barker* plaintiff, *Peter Barker* defendant. an. 19 Eliz.

The plaintiff exhibiteth a Bill of Two defendants, complaint against *Luce* and *Maulde* two defendants, of the defendants; and after Comission the one taketh a husband, on *Maulde* marrieth *John Bourne* the husband, other defendant, and the plaintiff the plaintiff then exhibited a Bill of Revivor against the defendants, which needeth not, as in a Bill of it seemeth to this Court; therefore revivor against husband and wife, and they discharged with costs. ordered, if there be no cause of revivor, that *Bourne* and his wife, who are called up by process to answer the same Bill, are licenced to depart without answer to the Bill of Revivor; and the plaintiff to pay him such costs as this Court shall award: *Jackson* and *Uxor* plaintiffs, *Luce Smith*, *John Bourne* and *Maulde* his wife defendants. Anno 19 Eliz.

The plaintiff by his Bill pretends title to certain Lands, and Free-hold Lands, which Lands the defendant

G

claims

The plain- claims to hold by Copy of Court Roll
 rant or- to him and his heirs, of one *Thomas*
 dered not *Stedolph* Esquire, Lord of the Manor of
 to pro- *Milcklam* in the County of *Surrey*,
 ceed, till whereof the said Lands are parcel; and
 he make prayed in aid of the said *Stedolph*: ne-
 one a par- vertheless the plaintiff served the said
 ty, whom *Arnold* with process to rejoyne, without
 the defen- calling the said *Stedolph* thereunto,
 dant pray- which this Court thinks not meet;
 eth in aid. therefore ordered, the plaintiff shall
 no further proceed against the defen-
 dant, before he have called the said
Stedolph in by process: *Lucas* plaintiff,
Arnold defendant. *Anno 19 Eliz.*

Injunction The said *Holgate* maketh oath, he
 left at the left an Injunction in the house of the
 defendants defendant, and that the defendant *Eli-*
 house, and *zabeth White*, *Thomas Crimore*, and *Ro-*
 disobeyed, *bert Watkins* have disobeyed the same;
 an Attach- therefore an Attachment is awarded
 ment. against them: *Holgate* and *Uxor ejus*
 plaintiffs, *Grantham* defendant. *Anno*
19 Eliz.

A Com- The defendant this day made his per-
 mission of sonal appearance upon a Commission
 Rebellion, of Rebellion, for saving his Bond made
 the Bond to the Commissioners in that behalf:
 made to *Brown* plaintiff, *Derby* defendant. *Anno*
 the Com- *19 Eliz.*
 missioners

Commonly it is used to take the The Bond
Bonds in the name of the Lord Chan- made to
cellor, Lord Keeper of the Great Seal the Lord
of England, the Master of the Rolls, Chancel-
lor, &c.,
or to any two of the Masters of the
Chancery, all which are good and al-
lowable by the practice of the Court of
Chancery.

Upon affidavit made by the plaintiff, that since publication granted he had divers witnesses, setting down their names, come to his knowledge, which witnesses examined after pub-
formerly he had not knowledge of, lication, ad
therefore ordered, he may examine informan-
them before the examiner, ad con-
informan- scientiam
dum con- scientiam
scientiam Judicis.

The plaintiff coming to the defend- Costs for
ant, shewed him a Writ; but did de- want of a
liver him neither note of the day of his Bill, shew-
appearance, neither did the same ap- ing the
pear unto him by the *Schedule, Label*, Subpoena;
or any other paper, and the defendant but deli-
appearing, found no Bill; it is order- vering no
ed, the defendant be allowed good note of the
costs, and an Attachment against the day of ap-
plaintant for such serving: *Brightman* pearance,
plaintant, *Powtrell* defendant. Anno 19 and at-
Eliz. tachment
for such
serving.

The plaintiff called the defendant, Jurisdic-
dwelling in the County Palatine of tion of Che-
G 2 Chester ed,

Chester, by process to answer a Bill for lands lying in the said County Palatine, contrary to a general order lately certified into this Court by her Majesties appointment, touching the said County Palatine, according to the said general order: *Willoughby* plaintiff, *Brearton* defendant. *an. 19 Eliz.*

A Covenant to repair a house, the defendant would not suffer it, and demurred, but ordered to answer.

The plaintiffs Bill is, that he leased a house to the defendant, and did covenant to build and repair it before a day, which being at hand, and shewed that he had prepared Timber and Workmen to perform the same; but the defendant, as well to have him break his Covenant, as to free himself from his Covenant to keep it in reparations, did interrupt and threaten the Work-men, whereby they durst not proceed to repair, and so the houses are decayed, and the plaintiff hath no remedy to force the defendant to suffer him to repair: the defendant demurred upon the Bill, alledging the plaintiff hath sufficient remedy by Law, which kind of answer this Court alloweth not; therefore a Subpœna is awarded against the defendant to answer: *Wood* plaintiff, *Tirrell* defendant. *Anno 19 Eliz.*

Where

Where it appeared by a Book heretofore presented to the Queens Highness, under the hands of Sir *James Dyer* Knight, Lord chief Justice of the common Pleas, Mr. Justice *Weston* late a Justice of the same Court, Mr. Justice *Harpur* late another Justice of the same Court, and Mr. Justice *Carrus* late a Justice of her Majesties Bench, and remaining (by force of her Majesties Warrant) of Record in the Court of Chancery, touching the Jurisdiction of the County Palatine of *Chester*; that before the raign of King *Henry* the third, all pleas of Lands and Tenements, and all other causes and contracts, and matters residing and growing within the said County Palatine of *Chester*, are pleadable, and ought to be pleaded and heard, and judicially determined within the said County Palatine of *Chester*, and not elsewhere out of the said County Palatine; and if any be heard, pleaded, or Judicially determined out of the same County, then the same is void, and *coram non iudice* (except it be in case of error, Foreign Plea, or foraigne voucher) and also that no inhabitant within the said County Palatine, by the Lawes, liberties,

Jurisdiction of *Chester* allowed.

and usages of the same, be called or compelled by any writ or process to appear, or answer any matter or cause out of the said County Palatine for any the causes aforesaid (as by the said Book among other things more at large appeareth) and where now of late the plaintiff hath exhibited a Bill of complaint into this Honourable Court, for and concerning certain lands and tenements lying within the said County Palatine, and hath taken process against the said Defendant in that behalf, who hath thereupon appeared, and by his Councill made request to this Court, that for the causes aforesaid the matter here exhibited against him might be from henceforth dismissed; wherefore for as much as *William Saylor* hath made oath, that the said lands do ly within the said County Palatine, and that the said Defendant is inhabiting and dwelling within the said County; therefore the said cause is from henceforth dismissed, and remitted to the Chamberlaine of *Chester*, and other her Majesties Ministers there, according to the Tenour of the same Book: *Willoughby Miles* Plaintiff, *Brearton* Defendant. an.
 19 Eliz. Fear.

Fearvise Wheatly made oath for the serving of a Subpœna upon the Defendant, to testifie on the behalf of the Plaintiff at the *Guildhall* in *London*, who hath not thereupon appeared; therefore an Attachment is awarded against him: *Bart* plaintiff, *Rookes* defendant. *an. 19 Eliz.*

A Subpœna served to testifie in the *Guildhall*, and not appearing, an Attachment.

A Bill was exhibited by the plaintiff against *Roger Haule*, supervisor of the last will of *Thomas Clifton*, and one *Roger Haule* was served with process, that was no supervisor of the said *Cliftons* will, and alledged that the said *Roger Haule* who was the supervisor was dead; and ordered the defendant shall put in his allegation upon oath by ~~way~~ way of answer, and then desire Judgment, whether he shall be compelled to answer the said Bill or not; and therein pay his costs for his wrongfull vexation, which shall be thereupon allowed to him: *Harrison* plaintiff, *Haule* defendant. *an. 19 Eliz.*

A Bill against *Roger Haule*, and another *Roger Haule* was served, he must shew it by Plea, and not by motion.

The plaintiffs are adjudged to pay Costs to the defendants 20 s. costs, comming upon process of Subpœna to testifie on their behalf; and having no charges tendred unto them, nor any interrogatories put in for them to be

Costs to witnesses served to testifie.

examined upon : *Pearce* and *nxor ejus* plaintiffs, *Crawthorn* and *White* defendants. *an. 19 Eliz.*

Costs paid
to a wit-
ness before
he be ex-
amined.

Lawrence Hide Gentleman, being called upon by process by the plaintiff to testify, informed this Court, that he was ready to depose, so that he might first have his costs to him allowed, which this Court thought reasonable : *Belgrave* plaintiff, *Edward Earl of Hertford*, and *William Drury* defendants. *an. 19. Eliz.*

A Sollici-
tor served
with pro-
cess to te-
stifie; or-
dered not
to be ex-
amined.

Thomas Hawtry Gent. was served with a Subpœna to testify his knowledg touching the cause in variance; and made oath that he hath been, and yet is a Solicitor in this suite, and hath received several Fees of the defendant; which being informed to the Master of the Rolls, it is ordered that the said *Thomas Hawtry* shall not be compelled to be deposed, touching the same, and that he shall be in no danger of any contempt, touching the not executing of the said process : *Berd* plaintiff, *Lovelace* defendant. *Anno 19. Eliz.*

A man and
wife exhi-
bite their
Bill, the
wife dyes,
the defen-
dant de-
murs for
that there
is no Bill
of revivor,
ordered to
Answer,

The plaintiff exhibited his Bill, as well in his own, as in his wives name, concerning a promise made by the defendants to the plaintiff and his wife, to make

make them a Lease of the Mannor of Appescourt during their lives; the defendants demurre, for that the plaintiff ought to have a Bill of Revivor against them, for that his wife is dead since the Bill exhibited; which cause of demurrer this Court alloweth not, for that the promise was made during the Coverture, and the plaintiff claimeth not the same in right of his wife; therefore the defendants are ordered to answer directly to the Bill: *Thorne* plaintiff, *Brend, Wilkinson* and *Alice* defendants. *an. 19. Eliz.*

Austen plaintiff, *Vesey* defendant; The Solicitor served the defendant with Subpœna to testifie; and for that it appeared by Affidavit, that he was Solicitor in the same cause to one of the parties, he was discharged, and not admitted to be examined. *an. 19 and 20 Eliz.*

Hartford plaintiff, *Lee* and *Alice* defendants; the Solicitor of one of the parties was served with Subpœna, to testifie in the cause in controversie, and the Court discharged him, by reason he was Solicitor in the cause. *an. 20. Eliz.*

The plaintiffs Bill was, for that he being

The Lease of a Copyholder is punishable in waste, though the Copyholder himself be not, being a Copyholder Leased to the defendant for years, and the defendant hath digged gravel, and sold the same away, whereby the Copyhold is prejudiced; the defendant justified, for that the Copyholders are not punishable in waste, which cause this Court alloweth not of; for though the Copyholders of the manor are not punishable, yet the Leases of Copyholders of the Manor are punishable; therefore a Subpœna is awarded, to shew cause, why an Injunction shall not be granted, for staying his digging of gravel, and felling Woods upon the Copyhold Lands: *Dalton* plaintiff, *Gill* and *Pindor* defendants.
an. 19 Eliz.

A Bill of perjury proceeded in this Court. Whereas the plaintiff exhibited his Bill against the defendant for wilfull perjury, the defendant hath demurred, which this Court alloweth not of: It is ordered a Subpœna be awarded to the defendant to answer: *Thomas Woodcock* plaintiff, *Giles Woodcock* defendant.
an. 19. Eliz.

Suite to have an award by assent, decreed. Whereas there was an award in writing exhibited into this Court, made between the said parties, by Sir *Christopher Wray* Knight, Lord chief Justice of England, whereunto the Lord chief

chief Justice hand, as well as the parties, are subscribed; it was requested by the plaintiffs, the same might be decreed by this Court, which this Court refused to grant, untill the defendants were made privy; therefore process is awarded: *Wakefield & Uxor, & alia* plaintiffs, *Hawson & Uxor, & alia* defendants. an. 19 Eliz.

The suit was to stay suit in the spiri- To stay
tual Court for a Legacy of 40 l. *Jean* suit in the
Barvill, widdow plaintiff, *Guy Barvill* spiritual
defendant. an. 19. Eliz. court.

The suit was for common of pasture, Suite for
and *Turbary*; the defendant demurred, common of
for that the plaintiff may have remedy pasture
at the common law, but ordered to an- and *Turba*;
swer; *Lawrence* and *Moregate*, & *alia* ry.
plaintiffs, *Windham* defendant. an. 19.
Eliz.

Robert Goodwine made oath that at Subpoena
such time as he came to the house of delivered
the defendant to serve a Subpoena upon to the de-
him according to an order of the 10. fendants
of May last, one of his servants came servant,
forth and told him he was within, who
thereupon delivered the Writ to be de-
livered to the defendant his Master:
Goodwine plaintiff, *Sullyard* defendant.
an. 19. Eliz.

The

Subpoena
served at
the suit of
an un-
known
man, and
no Bill in
Court, the
server to
pay Costs.

The defendant made oath that he was served with a Subpoena by the plaintiff in the name of one *William Web*, utterly unknown to the defendant; and now upon his appearance, no Bill in Court against the defendant, in the name of the said *William Web*, or of the plaintiff; therefore 30 s. cost is awarded against the plaintiff. *anno 19. Eliz.*

The hus-
band ap-
pears, and
the wife
not; attach-
ment a-
gainst
them both.

Forasmuch as the said *Abel*, one of the defendants appeared, and answered the last Terme, and his wife did not; therefore an Attachment was awarded against them both: *Monox* plaintiff, *Abel* and his wife defendants. *anno 19. Eliz.*

Jurisdic-
tion of Ox-
ford.

Whereas there was this present day exhibited into this Court, a Certificate under the Seal of the University of *Oxford* on the defendants behalf, testifying and declaring, that the Chancellors of the said Universitie, and their successors, from the time whereof the memory of man is not to the contrary, as well by grant and consideration of her Majesty, as of her Majesties noble progenitors as sometimes King of this Realm, have had the cognizance, and final determination of all manner of

of Pleas, strifes, quarrels and controversies whatsoever (Felony, Maine, and Franktenant onely excepted) rising and growing as well within the precinct of the said City of *Oxford* as without, within the Realm of *England*; whereas one of the parties within the said suit, action or plea, is a Master or Scholar, or common Minister of the same University, or such a person as the Chancellor, Vice-chancellor, Lieutenant, or Commissary will certifie, ought to enjoy the priviledge of the same University; and that the same persons, upon the shewing forth of the said Certificate in any Court where they are impleaded, ought to be discharged out of the same Court; forasmuch as it appeareth by the said Certificate, that the said defendant, who is brought up by a Subpœna to answer a Bill exhibited by the plaintiff into this Court, is a Bachelor of Law in the same University; and for that also it appeareth by the plaintiffs said Bill of complaint, that the matter therein contained is onely for certain promises supposed to be made by the defendant to the plaintiff, touching certain Goods, Chattels, and money therein mentioned,
and

and not Franktenement, or any matter before excepted : It is therefore ordered, that the said defendant be of and from the said Bill of complaint, and matters therein contained, from henceforth clearly and absolutely dismissed ; and the plaintiff referred to take his remedy for the same, before the Chancellor, Vice-chancellor, Lieutenant, or Commissary of the said University of *Oxford*, according to the Tenor of the said Certificate : *Temple* plaintiff, *Foster* Doctor of the Civil Law defendant. *Anno 19 Eliz.*

Consil.

Thomas plaintiff, *Mounson* defendant, produceth a Certificate of the University, claiming jurisdiction of the same University ; therefore the cause is from hence dismissed to be tried and determined there. *Anno 19 Eliz.*

A Master and examiner, examined witnesses, publication stayed after granted.

The plaintiff in the end of Easter Term, by Mr. *Griffeth* his Attorney, required the defendant to proceed to Commission for examining of witnesses, and the defendant was ready to joyn ; sithence which time the plaintiff, contrary to the Order of this Court, (as they alledge) hath produced one of the Masters of this Court, and one of the examiners to travel to the plaintiffs

tants house in *Wiltshire*, 60 miles distant from *London*, and there hath examined witnesses; it is ordered, that publication be stayed until the matter be examined after publication is granted: *Darrall* plaintiff. and *Stukely* defend. *An. 19 Eliz.*

The plaintiffs Father did purchase in Fee-Farm to him and his heirs, the Manor of *Long-Eason*, in the County of *Derby*, of one *Kymwelmarcb*, rendring 8 *l.* rent, with a condition of re-entry for non-payment of the rent, deviseth the Land to another for life: A *ducens tecum* for the evidences. *An. 19 Eliz.*

The plaintiffs Father seized in Fee, with a condition to re-enter, deviseth for life, A *ducens tecum*.

Forasmuch as the defendant hath appeared in this Court upon an Attachment of privilege, and attended from day to day according to his Bond made in that behalf, and hath also pleaded an issue to the plaintiffs Declaration; therefore the defendant is licensed to depart: *Dugdell* plaintiff, *Orrell* defendant. *An. 20 Eliz.*

The defendant licensed to depart after issue.

The defendant by his Answer confesseth he was joynt purchaser in trust with the plaintiffs Father, to them two, and to the heirs of the plaintiffs Father, of the Lands in question; and that he never received any profits thereof; and that he meant at the plaintiffs full

Trustee ordered to convey the Lands according to the trust.

full age to convey the Lands to the plaintiff and his heirs, according to the trust; it is ordered and decreed, the defendant shall forthwith upon notice to him given, convey his Estate in the Lands to the plaintiff, and the heirs of his body begotten, with such remainder over, as in the last Will and Testament of the plaintiffs Father is expressed, at the costs of the plaintiff: *Young* plaintiff, *Leigh* defendant. *Anno* 20 *Eliz.*

Jurisdiction of the Exchequer rejected, for that one of the defendants had no privilege there.

Bittenson on of the defendants demurred, for that he was a Clerk of the *Exchequer*, and ought to be privileged there; and the said *Mary* demurred without shewing any cause: forasmuch as it was openly affirmed by the common voice of the Officers of the same, that the said *Bittenson* may be impleaded in this Court, notwithstanding any privilege in the *Exchequer*; and for that likewise, if there were any such cause of privilege, yet he could not have the same in this suit, by reason another party who ought not to have any such privilege is joyned with him; therefore a Subpoena is awarded against the defendants to answer: *East* and *Scudamore* plaintiff: *Bittenson* and *Ma-*

ry Valence defendants. *an. 20 Eliz.*

It is ordered, that in a Bill of perjury put in against the defendant, he having put in his answer, should not depart until he be examined upon interrogatories, according to the general order and course in that behalf accustomed; for it was affirmed by the Officers of this Court, that by the order and custome of this Court, he ought to be examined upon interrogatories: *Phillips* plaintiff, *Benson* defendant, *an. 20. Eliz.*

The defendant made oath, the plaintiff came to him on *Easter* day last in *Barrington* Church, and commanded him in the Queens name to appear in *Chancery* the 17th day after; which said defendant demanded the process, and the plaintiff answered him, he was to serve another, and therefore would not leave him any note for his appearance, and yet upon his appearance no Bill found in Court; therefore the plaintiff is adjudged to pay him 20 s. costs: *Syers* plaintiff, *Cotts* defendant. *an. 20 Eliz.*

Robert Hodgeson made oath, that he left a Subpœna to make a better answer upon the door of the lodging of the

The defendant in a Bill of perjury after answer, ought to be examined upon interrogatories.

The plaintiff requires the defendant to appear, shewing no Writ, and no Bill in Court, hath 20 s. costs.

Affidavit for serving a Subpœna.

H

said

said Defendant, being at the Sign of the *Maidenhead* without *Temple bar*, where- as both by the report of divers of the neighbours thereabouts, as by the re- course of her servants to and fro at the same time, by all presumptions, she the said Defendant was then in the said house, and yet she hath not made a better answer ; therefore an Attach- ment is awarded against the Defendant: *Croker* Plaintiff, *Hambden* Defendant. *Anno 20 Eliz.*

The De- fendant hath no cost, be- cause the Subpcena is lost, but Attach- ment is stayed.

The said Defendant hath this present Term appeared upon a Subpcena, at the Plaintants suit 15 *Pascha*, and no Bill in Court ; and for that the Defendant hath lost the said Subpcena, he cannot demand his charges for want of the said Bill ; it is ordered, no process of contempt issue out of this Court against the Defendant upon the said Subpcena : *Blanch Parvy* Plaintiff, *Morgan* De- fendant. *Anno 20 Eliz.*

Costs for want of a Bill,

The Defendant made oath, that one of the Plaintants servants shewed him a Subpcena *tres Pasch.* return, but would not deliver him the Writ or La- bel ; and now upon the Defendants appearance, there is no Bill against him in Court ; therefore costs : *Gray* Plain- tant,

tant, *Gurney* Defendant. *Anno 20 Eliz.*

The Defendant by his answer disclaimed of the Clerkship of the Peace in question, and confessed thereby that he delivered all the Records, and Titlelings of Sessions, which he had, to Mr. *Trentham*, *Custos Rotulor.* in the County of *Stafford*; and yet the Plaintiff hath replied to the same, to examine the manner of assault, and other matters touching the death of one *Ashbrook*, and goeth about to examine witnesses thereupon; it is ordered, that if cause be not shewed to the contrary, that no witnesses shall be examined touching the manner of assault or death of *Ashbrook*, or circumstances thereof: *Archbald* Plaintiff, *Borrol* Defendant. *An. 20 Eliz.*

The defendant disclaiming, no witnesses to be examined, touching the death of another

The Defendant in a *Scir. fac.* upon The defendant a recognizance to pay 100 l. at *Martine* defendant in the County of *Surrey*, pleaded payment at *Bristow*, where the Justice of Assize without special Commission cometh not, to the intent onely to delay the party; therefore it is ordered, the Defendant shall by *Friday* next, either be sworn to his said Plea, or else put in such a sufficient issuable Plea as he will stand unto, at his peril: *Lovell*

The defendant bound to pay money at one place, pleads payment at another, not good.

Plaintant, *Hopkins* Defendant. *an. 20 Eliz.*

A demur-
rer to a
Bill of Re-
vivor or-
dered to
answer.

The Defendant demurred upon a Bill of Revivor exhibited by the Plaintiffs against her, for that she was a woman Covert during the time the first suit depended ; but ordered to answer, for that she was party to the suit with the said *Twynnehoe* her husband : *Ruthel & Uxor ejus* Plaintants, *Dom. Elizabeth Litton*, late wife to *Edward Twynnehoe*, defendant. *an. 20 Eliz.*

The wife
after the
death of
her hus-
band sueth
a Bill of
revivor,
and good.

The Plaintiff and her husband exhibited their Bill against the Defendant ; the husband dieth, the wife now Plaintiff exhibiteth a Bill of Revivor, and good : *Alice Parrot* widdow Plaintiff, *Randall* and *Cowarden* Defendants. *an. 20 Eliz.*

To take
bond of
such as ap-
pear upon
contempt,
to attend
from day
to day.

It is ordered, that from henceforth no entry be made by any the Attorneys into the Registers Book of this Court, of any appearance of or upon any Attachment, or Commission of Rebellion, but that the party so appearing shall first enter into sufficient Bond by Obligation to this Court, to be taken by the Register of this Court, with condition to attend from day to day, and not to depart before he be specially
licensed

licensed by this Court. *Pascha.* 20
Eliz.

The defendant refuseth to answer the receipt of rent, and demurred for that the plaintiff may have remedy by Law for the same; therefore ordered a Subpoena be awarded to make direct answer: *Dix & Cantrell* plaintiffs, *Lintoft* defendant. *an.* 20 *Eliz.*

The defend.
demurres
for that
there is re-
medy at
common-
law, but
ordered to
answer.

Whereas information was made to this court, on the behalf of *George Stidenham* Esquire, now Sheriffe of the County of *Somersetshire*, That whereas a *Capias* upon a Recognizance of 133l. 6 s. 8 d. issued out of this Court in *Hilary* Terme last, to the Sheriffe against the said defendant, the said Sheriffe had a *Capias* also for a debt due to her Majesty, to him directed out of the Court of *Exchequer*, both which *Capias* the Sheriffe returned into the said several Courts the last Term a *cepi corpus & languidus in prisona*; whereupon a *duces tecum* issued out of the said Court of *Exchequer* to the said Sheriffe, for bringing in of the body of the defendant into the said Court of *Exchequer*; whereupon the said Sheriffe hath brought up the said defendant, and made request this present day to this

Habeas corpus to
he war-
den of the
Fleet, to
have the
defendant
in Court,
to be charg-
ed with a
debt upon
a recogni-
zance.

court, that some order might be taken by this Court, that the defendant may remain in execution for the debt of the said plaintiff, after he hath answered his said debt to her Majesty, so that the said Sheriffe may not hereafter be charged by the returne made by the *Capias* upon the said Recognizance in this court; it is therefore ordered, by the advice of the right honourable the Lord Treasurer, and the Lord chief Justice of *England* being present in court, that a *Habeas Corpus* be awarded to the Warden of the *Fleet*, to bring the said defendant into this court on *Thursday* next, to the end the said Warden may be also charged with the said defendant by this court, till he have satisfied, or taken order for the payment of the debt due to her Majesty; and that then he shall keep him in his custody, untill he answer unto the plaintiff, this said debt of 133 *l.* 6 *s.* 8 *d.*: *Ward* plaintiff, *Cronch* defendant. *an. 20 Eliz.*

Costs for
the Solli-
citors
charges;
in making
Affidavit
for serving
process,
and the
defendants
impotency,
no Bill be-
ing in
Court.

Thomas Boulton made oath, that the defendant was served with a Billet in Paper to appeare 15 *Trinitat.* and no Bill in Court against her at the plaintiffes suite; therefore the plaintiffe is adjudged

judged to pay the defendant 33 s. 4 d. sustained in sending up the said *Boulton*, who hath made oath, that she is so impotent, that she is not able to travel up hither thereupon personally: *Gredlow* plaintiff, *Prestwich* defendant. An. 20 Eliz.

The plaintiff is adjudged to pay to Costs for the defendant 40 s. costs, for want of a Bill, for that the defendant made oath the plaintiff shewed him a Subpoena wherein his name was written, but would not deliver him the same, for that there were others to serve with the same Writ: *Symont* plaintiff, *Pinsonby* defendant. an. 20 Eliz.

John Clegge was served with a Subpoena, by the name of *Robert Clegge*, and *John Warberton* made oath, that he served a Subpoena upon *Robert Clegge*; and an Attachment was served upon *John Clegge*, and ordered that he should be discharged thereof; and might exhibit his Bill into this court, against the said *John Warberton*, and call him in by process to answer his perjury: *Robere Clegge* plaintiff, *Thomas Warberton* defendant. an. 20 Eliz.

Attachm. discharged, and a Bill of perjury for procuring it indirectly.

A Motion for an attachment against the defendant, for breach of a decree

The Lord Chancellor and injunction, and ordered by the Lord Chancellor *Bromley*, that for that time he stayed the granting of the Attachment, and vouchsafed to write his Letters, requiring him to perform the same, trusting he would have such regard thereunto, as no Attachment shall after be required against him: *Story* plaintiff, *Dominus Pawlet* defendant. 21 and 22 *Eliz.*

Injunction
against the
spiritual
Court

A Motion, that where the plaintiffs had exhibited their Bill to be discharged of a legacy, the defendant since his suite, sued in the spiritual Court; and therefore day to shew cause why an Injunction should not be granted: *Parre & uxor* Plaintants, *Tipelady & uxor* Defendants. Anno 21 and 22 *Eliz.*

Attach-
ment upon
the defen-
dants con-
fession he
was served

William Smallwood made oath, the defendant confessed he was served with a Subpœna at the plaintiffs suit, who not appeared; therefore an Attachment is awarded against the defendant, to the Sheriffe of *Essex*: *Waters* plaintiff, and *Berd* defendant. anno 21 and 22 *Eliz.*

Jurisdiction
of Ox-
ford al-
lowed.

The defendant, a Master of Art in *Oxford*, pleaded his priviledge of the University under the Seal there, and demand-

demanded Judgment whether he should be driven to answer contrary to the privilege, and the privilege was allowed, and the Attachment discharged: *Cotton* plaintiff, and *Manering* defendants. *anno* 21 and 22 *Elix.*

A decree is made for the defendant to enjoy certain Lands, as well Copyhold, as Customary: *Bamborow* plaintiff, *Alexander* defendant. *an.* 21 and 22 *Elix.* Decree for Copyhold land.

The defendant made oath, that he was served with a Subpœna at the plaintiffs suit to appear in this Court; and that he hath lost by casualty the Subpœna; and upon his appearance, there was no Bill in Court against him, at the said plaintiffs suite: therefore the plaintiff is adjudged to pay the defendant 40 s. costs for want of a Bill: *Domina Edith Metham* plaintiff, *Mychael Fayrbanc* Defendant, *anno* 21 and 22 *Elix.* Costs for want of a Bill, the Subpœna being lost.

For that it appeared as well by the plaintiffs Bill, as that *Osney* one of the defendants hath made oath that the lands in the Bill is not worth 40. s. *per annum*; therefore dismissed generally, and not without costs: *Townly & uxor* plaintiffs, *Osney & uxor & Parsons* Dismission because under 40s. per annum.

Parsons defendants. *an.* 21 and 22 *Eliz.*

Jurisdiction of *Wales* allowed, being under ten pound.

The defendant made oath, that the plaintiff and defendant are both dwelling within the Jurisdiction of the Marches of *Wales*; and for that it appeareth by the bill, that the Money complained for is under 10 *l.* therefore the cause is dismissed: *Eastcourt* plaintiff, *Tanner* defendant. *an.* 21 and 22 *Eliz.*

Suit retained after Judgment and Execution.

Debt upon a single Bill satisfied, and the Bill not delivered was sued, and execution gotten, and yet retained in *Chancery*, notwithstanding a motion to be dismissed, because after Judgment and Execution; for it was said the Judgment and execution may stand, and this suit for that he formerly paid: *Owen* plaintiff, *Jones* Defendant. *anno* 21 and 22 *Eliz.*

Costs against the plaintiff for want of a Bill.

The defendant maketh oath, that one *Rook* served him with a Subpoena in the name of the plaintiff, and at his suit, as he affirmed; but would not deliver neither Writ, Labell, nor note of the day of appearance, but told him, it was to appear the first day of this Terme, and now no Bill in Court; therefore costs is granted against the plain-

plaintant : *Parsons* plaintant, *Hilford*
defendant. *Anno* 21 and 22 *Eliz.*

An order for a Commission, to set Commis-
out meet wayes, and Cawfages, moved sion to set
in presence of Mr. *Egerton*, of Counsell out meet
with the defend. *Castos* of *All Soules* ways for
Colledge in *Oxford* plaintant, *Everal* passages.
& *aliis* defendants. *an.* 21 and 22
Eliz.

Upon an Oath made for impoten- An Eng-
cy of *Jenkin* the defendant in a former lish Bill
suit by the said *Goose*, by the name of for perju-
William ap William, they procured a de- ry.
dimis potestatem to take the answer of
Jenkin to *John Floyd*, and *William Goose*
himself, whereas the party was under 50
years of age and not impotent; hereupon
the plaintant exhibits an English bill of
perjury into this Court, against the said
Goose for perjury, and *Jenkin* for the
procuring of it; whereupon they be-
ing served with a Subpoena to answer
the perjury, they get a stay of the pro-
ceedings from the counsell of the Mar-
ches; where, upon motion, Sir *Tho-*
mas Bromely Lord Chancellor, marvel-
led at such their stay, and writ his Let-
ters to the said Counsell, and granted
a new Subpoena against the defendants

to answer the perjury; *Joan Uxor Grif-
fith* plaintiff, *Richard ap Jenkin*, and
William Goose defendants. anno 21 and
22 *Eliz.*

Injunction
to stay
judgment
in an acti-
on of waste.

The Bill was to be relieved against
a Judgment indirectly gotten by *Ralf
Cavendish* in the name of *Thomas Ca-
vendish* his brother by default in an ac-
count of waste; and because it so ap-
peared, an injunction is granted: *Gal-
ley* plaintiff *Ralf Cavendish* and *Thomas
Cavendish* defendants. an. 21 and 22 *Eliz.*

Relief for
a trust up-
on a lease,
after it is
sold.

The Suit was to be relieved upon
a lease made to the defendant in trust
to the use of the plaintiff: and be-
cause it so appeared, it was ordered
that the plaintiff should enjoy the lands
against the defendant, and all claim-
ing under him, that had notice of the
trust: and if the lease were sold to such
as had no notice of the trust, then the
defendant shall pay to the plaintiff so
much money as the lease was worth:
Rooke plaintiff, *Staples* defendant. an.
21 and 22 *Eliz.*

A Bill for
relief after
Judgment
and execu-
tion dis-
missed.

A Bill to be relieved upon a bond
after Judgment and execution, and
because no material matter alledged
for maintainance thereof, therefore
dismissed: *Adams* plaintiff, *Dod-
desworth*.

desworth Defendant. Anno 21 and 22
Eliz.

The Bill was, to be relieved for egress A Bill upon a pro-
and regrefs into a garden of the Defen- on a pro-
dants for drying of cloaths, promised mise for
by word onely by the Defendant to the leave to
Plaintant; therefore dismissed, for that dry clothes
the Court ought not to be burthened in a gar-
den, dis-
with such small matters: *Hamby* Plain- missed,
tant, *Northage* Defendant. Anno 21 and
22 Eliz.

Gwilliam made oath, that he saw a Sub- Attach-
poena served on the Defendant, who ment for
hath not appeared: therefore an At- not ap-
tachment: *Morgan* Plaintiff, *Evon* De- appearing
fendant. Anno 21 & 22 Eliz. upon a
Subpoena.

An Attachment was delivered to the Day given
Sheriff to execute, who did not return to the
the same; and upon Affidavit of the de- Sheriff, to
livery, a day was given to return the return an
Writ, upon pain to be amerced 5 l. Attach-
Crompton Plaintiff, *Meridith* Defendant. ment, up-
Anno 21 & 22 Eliz. on pain of
5 l.

Affidavit made for the delivery of
an extent to the Sheriff, which he hath *Consil.*
not returned; therefore a day is gi-
ven to the Sheriff to return the Writ,
upon pain of 10 l. *Hamby* Plaintiff,
Wight Defendant. Anno 21 and 22
Eliz.

Injunction to stay suits, because the Queen was deceived of her fine. Three Bonds put in suit in the Kings Bench, and stayed by Injunction by Order, because the Queen was hindered of her fine: *Paschal* Plaintiff, *Smith Miles* Defendant. *Anno* 21 and 22 *Eliz.*
Calvely Plaintiff, *Philips* Defendant.

Consil.

Bonds put in suit in the Kings Bench, stayed by Injunction, because the Queen was hindered of her fine. *Anno* 21 and 22 *Eliz.*

The Heir is sued to make a lease, for which his elder brother took a fine, or to repay the fine. The Bill prayeth relief against the Defendant as Brother and Heir, for that the Plaintiff paid to his Brother deceased, a fine of 34 *l.* for a lease, who died before the same was made; and therefore desireth either to have the Lease made by the Heir, or his money again; thereupon it is ordered, the Defendant shall answer an Injunction: *Keem*, alias *Mogge*, Plaintiff, *Meere* Defendant. *An.* 21 and 22 *Eliz.*

The Clerk is fined 40 s. for his mistake in making a Subpoena.

The Defendant got costs for want of a Bill, and bespake of *Robert Bayles* a Clerk, a Subpoena for those costs, who made her a Subpoena *ad sectam*, whereupon the Plaintiff got costs; this being moved for discharge of these costs so gotten by default of the Clerk: It is ordered, that the Defendant shall be discharged,

discharged, and the plaintiff also of the costs gotten by the defendant; and neither of them should have process against the other for the same, but the defendant might take a Subpœna against the Clerk that made the erroneous process for the 40 s. costs, which she should have had against the plaintiff: *Franck-blanc* plaintiff, *Domina Metbam* defendant. Anno 21 and 22 Eliz.

Oath is made for the delivery of a Subpœna to the wife of the defendant at his house, who hath not appeared; therefore an Attachment: *Pilgrime* plaintiff, *Read* defendant. Anno 21 and 22 Eliz.

The plaintiff desireth to be relieved against an Obligation of 100 l. which had an intricate and insensible condition put in suit, for that the plaintiff being desired by the defendant to seal a Release, desired onely time to be advised thereof, which the defendant would not yield unto, but hath put the bond in suit, though no wayes damified; and now the plaintiff is ready to seal the Release; therefore an Injunction is granted: *Rowles* plaintiff, and *Rowles* defendant. Anno 21 and 22 Eliz.

The

Attach-
ment with
Proclama-
tion dis-
charged,
paying
the ordi-
nary Fee,
answer be-
ing in be-
fore.

The Defendant took out a Commissi-
on to take his answer in the Countrey,
and thereby answered, he could not di-
rectly answer without sight of eviden-
ces, which are in *Nottinghamshire*, far
distant from *Dorsetshire*; the Defendant
afterwards made a perfect answer, and
yet the Plaintiff took out Attachment,
and Attachment with Proclamation;
both which were discharged, paying
the ordinary Fees, and 2 s. 6 d. to the
Warden of the *Fleet*: *Trussel & alius*
Plaintants, *Willoughby Miles* Defendant.
Anno 21 & 22 Eliz.

One Exe-
cutor su-
eth the
other to
put in
sureties to
perform
the Will.

John Cotton, the Plaintants Brother,
devised divers goods to his two Sons,
to be delivered at their full age, and
made the Plaintiff and Defendant Ex-
ecutors; 100 l. of the goods came to
the Plaintants hands, 250 l. came to
the Defendants hands: The Plaintiff
desireth by his Bill, that in respect of
the trust and joynt-charge which may
survive, that the Plaintiff and Defen-
dant may each be bound to the other, to
pay the children their Portions in their
hands at their full age; and if either
Plaintiff or Defendant die before, then
the Executor shall pay that which was
in the Testators hands to the survivor;
which

which this Court thought in conscience to be meet, because the defendant by answer confesseth the trust and receipt of 250 l. Therefore a Subpœna is awarded against the defendant, to shew cause why it should not be decreed: *Cotton* plaintiff, *Causton* defend. Anno 21 and 22 Eliz.

An Attachment and other process of contempt issued out of this Court, for not returning the defendants answer by Commission, is discharged, paying the ordinary Fees, because the plaintiff named one Commissioner, who refused to join with one of the defendants Commissioners in taking the defendants answer; and a new Commission is granted to indifferent Commissioners named by the defendants: *Marshall* plaintiff, *Harwood* defendant. Anno 21 and 22 Eliz.

The contempt discharged, and a new Commission granted to take the defendants answers.

It is moved, that where a prohibition was six months since granted for stay of a suit in the Ecclesiastical Court at *Herford*, upon surmise the lands are held in *Capite*, whereas it appeared by Letters Patents thereof the lands holden of *Eastgreenwich*; therefore consultation, unless cause shewed; and the party to pay double costs according to the

Prohibition for Tithes of Lands held in *capite*.

the Statute, whereby the prohibition is granted : *Wolfe* plaintiff, *Merrick Clums* defendant. *An.*

Costs for
want of a
Bill, oath
made be-
fore the
Major of
Totnes.

Forasmuch as the Major of *Totnes* hath certified under his common Seal, that the defendant made oath before him, that he was served with a Billet in Paper at the plaintiffs suit, and upon his appearance no Bill, therefore costs : *White* plaintiff, *Carpenter* defendant. *An.* 21 and 22 *Eliz.*

Attorney
present in
Court, en-
joynd
not to
proceed at
common
law.

Brent an Attorney at common Law for the defendant, being present in Court, is enjoined in open Court, upon pain of 200 *l.* not to proceed at common Law, upon an action of debt upon an Obligation against the plaintiff : *Bishop* plaintiff, *Jessop* and *Wats* defendants. *Anno* 21 and 22 *Eliz.*

Suit for
rent of
10 *s.*

Forasmuch as the said *Thoroughgood* made oath, that the matter in the Bill is for a Portion of Rent of 10 *s.* by year, being of small value, it is dismissed : *Knighton* plaintiff, *Allen* and *Thoroughgood* defendants. *An.* 21 and 22 *Eliz.*

Affidavit
that he
saw a Sub
pœna ser-
ved.

John Vaux made oath that he saw a Subpœna served upon the defendant, therefore for not appearance an Attachment is granted ; *Vaux* plaintiff,

ant, *Glasiers* defendant. *An. 21 and 22 Eliz.*

John Leigh made oath for the serving of a Subpœna on a witness, to testify on the plaintiffs behalf before certain Commissioners, who hath not so done: Therefore an Attachment is awarded against the defendant: *Middleton* plaintiff, *Speright* defendant. *An. 21 and 22 Eliz.*

The plaintiff made oath, that he heard the defendant confess he was served with a Subpœna, and hath not appeared; therefore an Attachment is granted: *Stow* plaintiff, and *Mad-dock* defendant. *An. 21 and 22 Eliz.*

The defendant and one *Thomas Butcher*, whose Executors, the said *Joan* and *Alexander*, have purchased certain lands jointly; the defendant promised the said *Thomas* upon his death-bed, he would take no advantage of the survivorship, but that the said *Thomas* might by his will dispose them; *Thomas* by his will devised his part of the lands towards payment of his debts; therefore decreed by the assent of the defendant, that the defendant should make estate accordingly: *Spring & ux. & Alexander Butcher* plaintiffs, *Upton* defendant.

fendant. *Anno 21 and 22 Eliz.*

Witness
that an-
swer insuf-
ficient a-
gain exa-
mined.

Robert Medigate Esquire, was served with Subpoena to testifie, and hath not answered to certain interrogatories administered unto him on the plaintiffs behalf, at the time of the executing of the said Commission, excusing himself, that he could not to some for want of certain Court Rolls, and to some other interrogatories he referred himself to former depositions, but doth not shew where they remain, nor when they were taken; it is therefore ordered, that the considerations of the depositions of the said *Medigate* be referred to Mr. *Doctor Carew*, one of the Masters of this Court; and if he certifie that he hath not sufficiently answered, then order shall be taken, that he shall directly answer the same; *Fish* plaintiff, *Mountford & aliis* defendants. *An. 21 and 22 Eliz.*

Jurisdic-
tion of Che-
ster allow-
ed.

It is ordered, that upon Affidavit made, that the defendants dwell within the County Palatine of *Chester*, and the cause of the Bill is to be relieved of certain debts there, the cause is therefore dismissed into the said County: *Heyward* plaintiff, *Sherington* defendant. *An. 21 and 22 Eliz.*

The

The effect of the suit is for a *Hawk*, and certain evidences supposed to be come to the defendants hands; and because it seemeth to the Court, the matter of evidences was onely inserted to give colour to the Court to hold Plea, and the matter of the Hawk is no meet matter for this Court; therefore the matter is dismissed: *Glasiers* plaintiff, *Massie* defendant. *Anno* 21 and 22 *Eliz.*

A suit for a Hawk, and evidences, dismissed.

The Bill is dismissed, because that Mr. *Massies* name was put to the same, as of Counsel, without his privity: *Gristing* plaintiff, *Hore* and *Hore* defendants. *An.* 21 and 22 *Eliz.*

The Bill dismissed, because the Con-
fessors hand is counter-
feit.

The Plaintiff is adjudged to pay to the Defendant 50 s. costs. for prosecuting the process of contempt against him, and no contempt proved: *Wrayford* Plaintiff, *Weight* and *Hingeston* Defendants. *An.* 21 and 22 *Eliz.*

Costs for prosecuting con-
tempt, and none proved.

The Bill setteth forth, that *Gibone*, one of the Defendants, in consideration of 286 l. did bargain and sell unto the Plaintiff certain lands in the Bill mentioned; and made unto him a deed of Feoffment, and a Letter of Attor-
ney to make livery, and seizin; and before livery, made a Lease to *Cateline*,

Fraud by making a lease after a feoffee-
ment, and before li-
very and seizin.

who knew of the bargain, and he Leased to *Brown*, who knew also of the bargain, and this appearing to this Court to be true, an Injunction is granted to the Plaintiff, until the cause should be heard and determined: *Ireby* Plaintiff, *Gibone, Cateline, and Brown* Defendants. *An. 21 and 22 Eliz.*

Suit stayed in the Kings Bench, because it was removed from London.

A special *Certiorare* to remove a cause out of *London*, the Plaintiff proveth the surmises of his Bill, the Defendant beginneth suit in the Kings Bench for the same cause; therefore stayed by Injunction: *Cliffe* Plaintiff, *Tarnor* Defendant. *An. 21 and 22 Eliz.*

Suit for common.

The Plaintiffs suit is to be relieved for a common, and a Subpœna is awarded against the defendant, to shew cause why an Injunction should not be granted to stay the suit at the common Law; *Chock* Plaintiff, *Chea* and *Wast* Defendants. *An. 21 and 22 Eliz.*

A Bill for 6*l.* dismissed.

The matter is dismissed, because the suit is for 6*l.* onely *Marber* Plaintiff, *Kempester* Defendant. *An. 21 and 22 El.*

Costs upon a Billet delivered to a Brother, and no Bill in Court.

The said *Edmund Barker* Defendant maketh oath, that he received a Billet of Paper of *John Barker* his brother, who affirmeth likewise upon his oath, the same Billet was delivered to him by the

the plaintiff; and because upon the defendants appearance no Bill is in Court, therefore 26 s. 8 d. is adjudged against the plaintiff: *Cook* plaintiff, *Barker* defend. an. 21 and 22 Eliz.

The Mayor of *Totnes* certified under his common Seal, that the defendant made oath before him, that he was impotent, and not able to travel; therefore a Commission is awarded to take the defendants answer in the Country: before the *Wotton* plaintiff, *Lewescomb* defendant. Mayor of *Totnes*. an. 21 and 22 Eliz.

Dodderidge Plaintiff, *Lasly* Defendant, upon oath made before the Mayor of *Exeter* of the defendants impotency, and unfitness to travel, a Commission is granted to take his answer in the Countrey. an. 21 and 22 Eliz.

Thomas Fursden made oath, the defendant is above 70 years of age; therefore a Commission is awarded to take his answer in the Country; *Vivean* plaintiff, *Nappar* alias *Sande* defendant. an. 21 and 22 Eliz.

George Elliot made oath, that all the parties are inhabitants, and dwelling within the *Marches* of *Wales*; and that the matter contained in the Bill of

complaint, is for no Title of land ; therefore the cause is dismissed to the determination of the said Commissioners : *Morgan* plaintiff, *Bitbell* and *Evon* defendants. *Anno* 21 and 22 *Eliz.*

Consil.

Philips alias *Phelps*, *Long* and *Spincke* plaintiffs, *Powel* and *Singleton* defendants ; upon oath made, that all the parties dwell within the jurisdiction of the Marches of *Wales*, the cause is dismissed to be tryed there. *an.* 21 and 22 *Eliz.*

Attach-
ment upon
oath be-
fore the
Bayliffes
of *Mount-*
gomery.

Forasmuch as the Bayliffes of *Mount-*
gomery have certified under their com-
mon Seal, that the plaintiff made
oath before them for the serving of
a Subpœna on the defendant, who hath
not appeared ; therefore an Attach-
ment is awarded against the Defen-
dant : *Griffeth* Plaintiff, *ap Edward*
ap John Defendants. *an.* 21 and 22 *E-*
liz.

Consilio

Forasmuch as the Mayor of *Exeter*
hath certified under his common Seale,
that the Plaintiff hath made oath be-
fore him for the serving of a Subpœna
on the defendants, who have not ap-
peared ; therefore an Attachment is a-
warded against them : *Preston* plaintiff,
Smith

Smith & ux defendants. an. 21 and 22
Eliz.

Ap *Richard* maketh oath, the Lands complained of is under 40s. by the year; therefore dismissed; *Morgan* Plaintiff, ap *Richard* and *Lewis* defendants. an. 21 and 22 Eliz. Dismission because under 40s. per annum.

An action upon the case commenced in the Kings Bench to the defendants damage 100 Markes, is stayed by Injunction, for that her Majesty is hindred of her fine, which should have been paid upon the original: *Brockhurst* plaintiff, *Cotton* defend. an. 21 and 22 Eliz. Injunction for defaulting the Queen of her fine.

An action upon the case commenced in the Kings Bench, to the damage of the Defendant 5 l. is stayed by Injunction. for that her Majesties fine was not paid: *Ward* Plaintiff, *Cobone* Defendant. an. 21 and 22 Eliz. Consil.

Attachment is granted for not appearing, upon a Certificate by the Mayor of *Totnes* under his common Seale, that *John King* made oath, he saw a Subpoena served upon the defendant; *Dinnis* Plaintiff, *Morgan* Defendant. an. 21 and 22 Eliz. Attachment upon oath before the Mayor of Totnes.

The Plaintants Bill is to be relieved for

Jurisdiction of the Manor of Woodstock over ruled.

for Copyhold lands, the Defendant doth demur, for that the lands are Ancient *demeasne* lands of her Majesties Mannor of *Woodstock*, and there onely pleadable; it is ordered, a Subpoena shall be awarded to the Defendant to make a better answer: *Wilkins* Plaintiff, *Gregory* Defendant. *an.* 21 and 22 *Elix.*

Commission to examine in perpetual memory.

Sir Nicholas Bacon
When an
Bacon orders

Upon a Subpoena in perpetual memory, the Defendant appearing, assented to join in Commission, so as the Lord *Bacons* orders touching examination of witnesses in perpetual memory might be observed; but upon motion it was ordered, that the Commission should be made general, as in like cases where the parties join, for that it seemed to the Court, the Lord *Bacons* orders were intended to be observed, where the Plaintiff hath a Commission alone: *Dominus Dacres & Uxor* Plaintiffs, *Southwell* Defendant. *an.* 21 and 22 *Elix.*

Lessee not named in the premises, decreed for him.

The Plaintiff desired to be relieved for a Lease made by the Defendant to him for years, which the Defendant endeavourerth to impeach, because in the premises of the Lease, there is no Lessee named, but onely in the *Habendum*;

dum; and the cause being referred to the two Lord chief Justices and the Lord chief Baron, they certified their opinion in Law, that the Lease was good in Law, notwithstanding the Lessee was not named in the premises of the Lease, but in the *Habendum*; and therefore decreed accordingly, that the Plaintiff should hold the said Lease: *Butler* Plaintiff, *Dodton* defendant. *an. 21 and 22 Eliz.*

The case is, that the Lord *Wray*, and *Sapcotes* father were made executors to the use of Children; *Sapcotes* father having gotten a great part of the testators estate into his hands, deviseth divers Legacies to strangers; and maketh the Defendant his Son Executor, and dyeth; and the Defendant by answer, confesseth his Father had divers goods of the first testators in his hands, but said, that the Defendant had not goods sufficient, more then would satisfy the Legacies given by his Father; therefore ordered, that the Defendant shall first pay to the Plaintiff the goods which were the first testators, and so much of his estate as came to his Fathers hands: *Wray* chief Justice Plaintiff, *Sapcote* Defendant. *an. 21 and 22 Eliz.*

One Executor gets the estate and dyeth, the other sueth his Executor, and ordered for him.

The

Feme covert
sueth
for main-
tenance
put into
anothers
hands; he
demurrs,
but order-
ed to an-
swer.

The Plaintiff setteth forth in her Bill, that she joyned with her husband in sale of part of her inheritance, and after, some discord growing between them, they separate themselves; and one hundred pound of the money received upon sale of the Lands was allotted to the Plaintiff for her maintenance, and put into the hands of *Nicholas Mine* Esquire, and Bonds then given for the payment thereof unto *Henry Golding* deceased, to the use of the Plaintiff; which Bonds are come to the Defendant, as Administrator to the said *Henry Golding* deceased, who refuseth to deliver the same to the Plaintiff, and hereupon she prayeth relief; the Defendant doth demurr in Law, because the Plaintiff sueth without her Husband; and it is ordered the Defendant shall answer directly: *Mary Sanky* alias *Walgrave*, Plaintiff, *Golding* Defendant. Anno 21 and 22 Eliz.

One Sub-
pœna ser-
ved on
two defend-
ants, two
Bills exhi-
bited, or-
dered to
answer
both,

The Plaintiff served the two Defendants with one Subpœna, but exhibited two Bills; the Defendants appeared, and answered the one, but not being served with any other Subpœna to answer the second, departed; whereupon an

an Attachment is awarded against them; and ordered, the Defendants answering the second Bill be discharged of the Attachment: *Ap Rice* Plaintiff, *Grannoe & Grannoe* Defendants. Anno 21 & 22 Eliz.

The Defendant demurred generally, The defendant without shewing any manner of cause; demurred and therefore ordered, that a Subpcena generally, be awarded against him to make a perfect answer: *Duffield* Plaintiff, *Greaves* & *alii* Defendants. Anno 21 & 22 Eliz.

The Plaintiff, as sole Executor to *Robert Maunder*, exhibited a Bill against the Defendants, for the same matter for which the Plaintiff and *David Gome*, as Executors to the same *Maunder*, exhibited another Bill; and ordered, that both Bills should be referred; and if both for one cause, the Defendants shall be dismissed from one of the Bills with costs: *John Maunder* Plaintiff, *John Wright & alii* Defendants. Anno 21 & 22 Eliz.

Christopher Askame hath made oath, that *John Bleverhasset*, being a deponent in perpetual memory, is dead, and *John Harrison*, another of the deponents, is, and hath been of long time sick, and not testimony;

not able to travel without danger of his life ; and that their depositions are very needful for the plaintiff, to be given in evidence, in a matter now depending at the common Law : *Senhames* plaintiff, *Senhames & aliis* defendants. *An. 22 Eliz.*

The defendant made oath, the plaintiff caused him to be served with a Subpœna the *Saturday* before the end of the Terme, returnable the *Thursday* following, being but two dayes before the end of the Terme, he the defendant dwelling in *Devonshire*, seven score miles distant from *London* ; wherefore the defendant could not conveniently appear, and make answer by the returne of the said Subpœna ; and yet neverthelesse the plaintiff had procured out an Attachment against the defendant ; therefore, and for that the plaintiffs Bill is but for evidences, it is ordered, the defendant be discharged of the Attachment, putting in his answer. *Smith* plaintiff, *Weare* defendant. *An. 21 and 22 Eliz.*

The soliciter of the plaintiff ordered to be examined with caution. Upon certificate of *Henry Ughed*, and *Thomas West*, two Commissioners, that *Thomas Marshall* one of the defendants witnesses, being warned by precept from them, refused to appear before

fore them, and that *Roger Taylor*, another witness, appeared, but refused to be examined, because he sollicitates the plaintiffs cause; it is therefore ordered, that the defendant shall examine before one of the examiners of this court, before the end of this Terme, as well the said *Roger Taylor* upon any Interrogatory, which shall not be touching the secrecie of the title, or of any other matter which he knoweth as solicitor onely, as also the said *Marshall*, or any other necessary witness, whereof the defendant shall first set down their names, so that the plaintiff may likewise examine them if he will: *Kelway* plaintiff, *Kelway* defendant. *an. 22 Eliz.*

It is informed, that the plaintiff exhibited his Bill without a Counsellors hand, or retaining an Attorney, and the same is for matter formerly decreed; therefore ordered, if cause be not shewed to the contrary, and if the Bill be to bring the matter in question that was decreed, then it is to be dismissed: *Bingham* plaintiff, *Warren* defendant. *Anno 22 Eliz.*

A Bill without 2-
counsellors
hand or
Attorney
retained,
dismissed.

The Defendant demurred upon the Bill for incertainty, which was certaine enough; And also for that all the parties

Jurisdiction
of Wales
overruled,

ties are dwelling within the Jurisdiction of the Marches of *Wales*, which is no cause of demurrer for title of Lands; therefore ordered, if cause be not shewed, a Subpœna is awarded against the defendants to answer: *Keyes* plaintiff, *Hill & ux* defendants. *an. 22 Eliz.*

Jurisdiction of *Wales* overruled.

The plaintiff exhibits his Bill touching a practise and misbehaviour supposed by the plaintiff to be used by the defendant against him, in bringing him up by Subpœna, at the suite of one *Anthony Hinck*, whereas the plaintiff never knew any such man, and for divers other misdemeanors used by the defendant in this Court towards the plaintiff; the defendant demurred, for that both parties dwell within the jurisdiction of the Marches of *Wales*, where he supposes the plaintiff is to seek his remedy, which kind of demurrer this court alloweth not, for that misdemeanors committed in this court are most meet to be here examined: *Griffeth* plaintiff, *Penrine* defendant. *an. 23 Eliz.*

The defendant staid by Injunction to pul down roomes to the prejudice of anothers rooms.

The plaintiff sheweth by his Bill, that his house and the defendants are joyning together, and supported by one main wall, standing partly upon the Freehold of either of the said parties; and

and the Plaintiff having also an Entry, Garret, and other necessary rooms standing upon the Kitchen of the defendant, he the Defendant went about to pull down the said Wall, and thereby to overthrow the said Garret; the Defendant made Title to some of the upper rooms, and hath pulled down part of the Wall; an Injunction is awarded to stay the Defendant, to pull down any more of the Wall, or any other part of the said house, whereby the said upper Roomes may be overthrown, or impaired, untill the matter be heard: *Bush Plaintiff, Field Defendant. an. 22 Eliz.*

A Commission to examine witnesses upon a on both parts, upon 14 days warning Commission to be given to the Defendant; *Lucy* sion warning one of the Defendants made oath, that ing given neither he nor *Varny* had any warning but to one defendant, ing, but if any warning was given, a new it was given to *Smith*, the other Defendant, who is little interested in the Commission is cause, but made a party, as the Defendant granted, and the defendants counsell supposeth, to take away his testimony from the other defendants; Therefore ordered, a Commission to have the carriage. whereof the said *Lucy* shall have the carriage, directed to

the former Commissioners, and 14 days warning shall be given to the Plaintiff, and he to examine if he will: *Hollingworth* Plaintiff, *Lucy Varney* and *Smith* Defendants. *Anno 22 Eliz.*

A Subpœna left in the defendants Hall an Attachment.

Humphrey Loyde made oath, that he saw one *Lewis* leave a Subpœna in the Hall of the Defendant, and that the Defendant was at home the same time, who hath not appeared; therefore an Attachment is awarded against the Defendant. *anno 22 Eliz.*

Witnesses examined before the Towne Clark of *York* suppressed.

A Commission to examine witnesses issued, but the Plaintiff at the place and day appointed brought not his Commissioners, nor the Commission, whereby the Defendants Commissioners could not sit to examine, but the Plaintiff procured certain witnesses to be examined before one of the Towne Clarkes of *York* touching the matter in variance; but ordered, no witnesses so taken shall be received into this Court, nor the Plaintiff take any benefit thereby, and a new Commission is awarded: *Hareforth*, and *Lowther* Plaintants, *Gates* Defendant. *Anno 22 Eliz.*

John Davis made oath that his boy served

served a Subpœna upon the Defendant, for the which the said boy was apprehended, and imprisoned in the Marches of *Wales*; therefore an Attachment is awarded against the Defendant: *Dastaines* Plaintiff, *Apprice* Defendant. an. 22 *Eliz.*

The server of a Subpœna imprisoned, therefore Attach-ment against the defendant Jurisdiction of *Wales* admitted.

The Defendant made oath, that both the said parties dwell in the Jurisdiction of the Marches of *Wales*; and that the matter of the Plaintants Bill, is but for a lease for years, and no title of Freehold; therefore dismissed: *Moore* Plaintiff, *Marshall* Defendant an. 22 *Eliz.*

John Lord *Zouch* deceased, late Father to the Plaintiff, did give the Manor of *Winford Eagle* with the appertenance in the County of *Dorset*, intailed to the Father of the Defendant, reserving 40 *l.* a year rent to him and his Heirs, and after about three years last past, granted 25 *l.* parcel of the said rent, to the Plaintants for their lives; and the Defendants Father did attorne, and pay the rent to the Plaintants, untill about two or three years before his death, which was about six years since, sithence which time the Defendant being issue in tail and seized, refused

A rent reserved and paid, the heir ordered to pay it.

to pay the said rent, but ordered by this Court to pay it, if he shew not good cause to the contrary: *Zouch & uxor* Plaintants, *Siddenham* Defendant. *an. 22 Eliz.*

A rent charge upon several mens Lands and levied upon one, an Injunction.

The Plaintiff seeketh relief by way of contribution, for that one of the Defendants hath a rent charge out of his the Plaintants lands, and out of one other of the Defendants lands, and yet seeketh to lay the whole burthen of the rent charge upon his the Plaintants lands; and because the Defendant would not answer, therefore an Injunction is granted for staying of the suits of the rent: *Dolman* Plaintiff, *Vavasor & alii* Defendants. *anno 22 Eliz.*

A dumb man is not to answer upon Subpoena.

It appeareth by oath that the Defendant is both senseless and dumbe, and therefore cannot instruct his Counsell to draw his answer; and therefore ordered, that no Attachment, or other process of contempt be awarded against the Defendant for not answering, without special order of this Court: *Altham* plaintiff, *Smith* defendant. *an. 22 Eliz.*

The plaintiff bought of the defendant the reversion of a Copyhold, which he

he could not enjoy, confessed by the defendants answer; thereupon a Subpoena is awarded against the defendant, to shew cause why he should not repay the money received upon the bargain: *Picketon* plaintiff, *Littecote*, & *alii* defendants. *an. 22 Eliz.*

Money paid for a reversion, which could not be enjoyed, ordered to repay the same.

The defendants were not served with process, and yet the plaintiff brought up divers witnesses to be examined; but ordered they should not be examined, untill the defendants have answered: *Episcopus Salisbury* plaintiff, *Hinde* and *Hinde* Defendants. *an. 22 Eliz.*

No Witnesses to be examined till the defendants have answered.

The plaintiff was drawn to drink, and filled with drink, spoke some words against the Defendant, for which he brought an action upon the case at the common Law; whereupon the plaintiff exhibited his Bill of complaint, and got an Injunction *pro non solutione Finis*. It is ordered, that the defendant paying the Queens fine, shall have liberty to proceed, and the Bill to be dismissed: *Qui peccat ebrius, luat sobrius*: *Kendrick* plaintiff, *Hopkins* defendant. *an. 22 Eliz.*

An action against a drunken mans words seeketh reliefe, but is dismissed.

Forasmuch as the Mayor of *Barnestable* hath certified, that *John Barker*

A Subpœna shewed and offered, Attachment for not appearing. made oath before him, that he did shew and offer to deliver to the defendant a Subpœna, which he would not accept, and hath not appeared; therefore an Attachment: *Peris* plaintiff, *Thomas* defendant. Anno 22 Eliz.

Witnesses examined 1 and 2 P. and M. ordered to prefer a Bill for publication.

The Plaintants made motion to have publication of witnesses taken 1 and 2 *Philip* and *Mary*, between one *Thomas Shrub*, then plaintiff, and now deceased, whose Daughters and Co-heirs the plaintiffs Wives are, and *Henry Barnard*, then defendant, now likewise deceased, touching Lands in the occupation of the defendant; and ordered, the plaintiffs shall exhibit a Bill for publication against the defendants, and call them by the Subpœna to answer, and then order shall be taken: *Clarke & uxor*, *Papwell & uxor*, *Stockes* plaintiffs, *Eve Mellers* and *Wodham* defendants. Anno 22 Eliz.

Attachment discharged by Superfedeas, paying the ordinary Fees.

The defendant was served with a Subpœna at the suit of *Hammer*, and for want of a Bill got costs; and the plaintiff, upon Affidavit that the defendant was served with a Subpœna at his suit, got an Attachment against the defendant, whereupon he was apprehended, and

and returned *languidus*; it is ordered, that the Attachment be discharged by *superfedeas*, the Defendant paying 20 s. 6 d. to the Warden of the Fleet, and the ordinary charges to the Plaintiff: *Brearton* Plaintiff, *Ap Roberts* Defendant. *Anno 22 Eliz.*

It is informed, that *Colstone*, one of the Defendants, examined his own wife as a witness; it is therefore ordered, the Plaintiff may take a Subpoena against her on his behalf; and if *Colston* will not suffer her to be examined on the Plaintants party, then her examination on the said *Colstons* party is suppressed: *Bent* Plaintiff, *Allot* and *Colston* Defendants. *Anno 22 Eliz.*

Upon the hearing of the cause it appeared, that the suit was to be relieved of a promise made by the Defendant to the Plaintiff, to surrender a lease, upon payment of 100 Marks by the Plaintiff unto him, and for that the matter is meet for the common Law, therefore dismissed: *Grevill* Plaintiff, *Bowker* Defendant. *Anno 22 Eliz.*

The Court was informed by one *Palmer*, that the three Defendants are his servants, and were served with Subpoena to be examined before the Town-Clerk

The defendants wife examined as a witness.

Suit upon a promise to surrender a lease dismissed.

Subpoena to testify where no cause was depending, discharged.

of *London*, who refused to be there examined, because the matter is not depending in *London*, but in her Majesties Bench, and yet Attachment is gotten against them, which kind of examination of witnesses this Court taketh to be unorderly, and therefore ordered the Attachment be discharged: *Price* plaintiff, *Tench*, *Holland* and *Packhouse* defendants. *Anno 22 Eliz.*

Jurisdiction of the North allowed.

The Earl of *Huntingdon*, President of the North, signified by his Letters to the Lord Chancellor, that the Lands for which the Bill is exhibited, were ordered for the defendant by the Council of the North parts, where the parties dwell, and land lieth; and the now plaintiff, upon serving his Subpœna, was ordered by the Council there to surcease his suit in this Court, and stand to the Order of the said Council, and yet the plaintiff hath procured an Attachment against the defendant; therefore ordered, the Attachment be discharged, and the matter dismissed: *Harrison* plaintiff. *Harrison* defend. *Anno 22 Eliz.*

Jurisdiction of the Exchequer disallowed.

The defendant demurred, because he is the Lord Treasurers man, and therefore ought to be priviledged in her Majesties Court of Exchequer; which
cause

cause of demurrer the Court allowed not, for that the defendant can have no priviledge, unless it were in such a case as the plaintiff might have remedy in the Court of *Exchequer*: *Lewen* plaintiff, *Fawdesly* defendant. Anno 22 *Elix*.

A Subpœna cautiously served, Attachment against the plaintiff.

The defendant made oath, the plaintiff shewed him a Subpœna, holding it in his own hand, and said it was against him, but would not let him have it, or see it, so that he might read it; neither would he deliver him any note of his appearance, nor tell him the same, but took witness that he had served the Subpœna; and about an hour after came again to the defendant, saying, You were desirous to see the Subpœna, here it is; and thereupon shewed the Label to the defendant, but in such sort, as he could not see the return; whereupon the defendant appearing, found no Bill; therefore Attachment against the plaintiff for misdemeanor: *Mead* plaintiff, *Cross* defendant. Anno 22 *Elix*.

The plaintiff is Grandfather on the Mothers side, to whom the Lands cannot come by the death of the Infant, exhibiteth a Bill against the Grandfather on the part of the Fathers side, to have

A Bill for tuition of an infant.

have the education and bringing up of one *Richard Edge* an Infant, who is seized of an Estate Tail of Lands, the remainder to the defendant, and to have the disposing of the profits of the Lands: But ordered with the defendant, for that it appeared there were divers remainders between the Defendants and the Infants estate: *Sweetman* Plaintiff, *Edge* Defendant. Anno 20 *Eliz.*

Costs for
a witness
served to
testific.

Francis plaintiff, *Sacheverill* defendant: The defendant is adjudged to pay to *John Hide* 20 s. costs, he appearing upon a Subpœna, to testify on his behalf. Anno 22 *Eliz.*

Deeds
neglected
to be en-
rolled, a
Subpœna
to shew
why nor.

The plaintiff purchased Lands of the defendant, anno 2 *Eliz.* and had a Recognizance then acknowledged unto him, for performing Covenants of the bargain and sale, and put one in trust to get both the Indenture and Recognizance inrolled, and paid him for the same; and now being evicted out of the possession of the Lands, came to take out a *Scir. fac.* upon the Recognizance, but finds it not enrolled; and therefore desireth the same might now be inrolled: It is ordered, that a Subpœna be awarded against the defendant, to shew cause why it should not; and Mr. Soliciter

Solliciter, who is present at the motion, is to give notice to some of his Clients, who have purchased (as he alledged) parcel of the Lands, to shew cause why it shall not be inrolled: *Sidenham* plaintiff, *Harrison* defendant. Anno 22 Eliz.

The defendants inform, that the Bill is exhibited for certain Lands, parcel of the Dutchy of *Lancaster*; and therefore ordered, that for so much it shall be dismissed: *Price* plaintiff, *Lloyd Owen* and *Read* defendants. Anno 22 Eliz.

The matter upon hearing appeared to be for a promise, wherewith the defendant chargeth the plaintiff, and 12 d. in money accepted upon the said promise, whereupon some trials, or non-suits, have passed; it is ordered, that for the ending of the said matter of promise, that the matter be referred to the Common Law to be tried: *Sutton* plaintiff, *Erington* defendant. Anno 22 Eliz.

The defendant informed, he was called upon by Subpœna, dated the 8th of February, and by answer saith, the said *Jane Piers* was married the 8th of February, and so at that time purchasing the Writ a woman Covert; therefore the defendant

The matter of assumpsit referred to the common Law.

Feme sole sueth out a Subpœna, and the same day is married, is dismissed with costs.

defendant is dismissed with 13 s. 4 d. costs : *Jane Piers* plaintiff, *John Cause* defendant. Anno 22 *Eliz.*

The plaintiff enters upon the defendants possession, ordered, either a dismissal, or injunction.

The defendant was in possession at the time of the Bill exhibited, the plaintiff entred upon him ; the defendant desired, that either he might have an Injunction for his possession, or else that the cause might be dismissed, which the Court thought reasonable ; it is ordered, the plaintiff shall shew cause why it should not be granted : *Hill* plaintiff, *Portman* defendant. Anno 22 *Eliz.*

Prohibition for Tithes, parcel of the Dutchy of Cornwall, but consultation if cause be not shewed.

The plaintiff *Thomas Hilliar* exhibited his Bill against the said *William Kendall*, that the said *Thomas Hilliar* was seized in Fee of two Messuages, 70 Acres of Pasture, Furzes, and Heath in *Lanlivery*, parcel of the Queens Majesties Dutchy of *Cornwall* ; and thereupon a prohibition against the said *William Kendall*, libelling in the Spiritual Court for Tithes, as Farmer to the said *Batten* Vicar there, pretending that right of Tythes for Lands holden of her Majesty, as of her Dutchy of *Cornwall*, ought to be determined in this Court ; and also that the said *John Hilliar* had exhibited the like Bill, and procured a prohi-

prohibition out of this Court against the said *Batten*; it is ordered, a Subpœna be awarded against the plaintiff, to shew cause why a consultation should not be granted: *Hilliar* and *Hilliar* plaintiffs, *Kendall* and *Batten* defendants. Anno 22 Eliz.

Oath was made in the name of one *Edward Jones*, that the defendant *Eaton* was sick, and the rest impotent, and not able to travel; whereupon a Commission was awarded to take their answers in the Countrey; now *Edward Jones* of *Ruthin* was called up at the plaintiffs suit by process for perjury, and alledged he was not the party that made the Oath, and brought a Certificate to justifie he was at *Ruthin* when the Oath was taken; therefore he is dismissed: *Brearton* plaintiff. *Eaton & uxor & alij* defendants. Anno 22 Eliz.

Griffen Price made Oath, that where the plaintiff served a Subpœna upon him to appear before Commissioners, to testifie on the plaintiffs party, he the said plaintiff did not give or tender him the said *Griffen* any money for his charges; and also that he was sick then, and not able to travel; therefore order-

Perjury in making oath for impotency, one of the same name sued for it, and discharged

A witness not able to travel, discharged of contempt.

ordered the said *Griffen* be discharged of the proceſſe of contempt gotten out againſt him for not being examined : *More* plaintiff, *Worcham* defendant. *an* 22 *Eliz.*

Juriſdicti-
on of *Wales*
not allow-
ed for a
promise.

The plaintiff ſeeketh to have the defendant to aſſure him certaine lands ſold him by the defendant, in conſideration of great ſums of mony already paid for the ſame, according to the promiſe of the defendant made in that behalfe; the defendant demurreth, for that the ſame promiſe was made within the Jurisdiction of *Wales*, where both parties are dwelling; but this ſeemeth to the Court no ſufficient cauſe of demurrer; and therefore ordered, a Subpœna be awarded to the defendant to answer: *Hutton* plaintiff, *Price* defendant. *an*. 22 *Eliz.*

A Com-
miſſion to
answer, he
returned a
demurrer,
therefore
Attach-
ment.

The defendant took out a Com-
miſſion to take his answer in the Coun-
trei, and returned a demurrer; there-
fore the plaintiff took out an attach-
ment, w^{ch} this Court liked well, for that
the defendant did not directly answer;
yet in regard of an oath made for the
defendants impotency, a new Commiſ-
ſion is granted to take his answer, and
diſcharged of the Attachment, paying
the

the ordinary Fees : *Paine & aliis* plain-
tants, *Carew* defendant. *Anno 22. Eliz.*

The plaintiff seekes to have Master *Oldsworth* examined touching a matter in variance, wherein he hath been of counsell; it is ordered hee shall not be compelled by Subpœna, or otherwise, to be examined upon any matter concerning the same, wherein he the said Mr. *Oldsworth* was of counsel, either by the indifferent choice of both parties, or with either of them by reason of any Annuity or Fee : *Dennis* plaintiff, *Codrington* defendant. *Anno 22 Eliz.*

The said *Coleman* maketh oath, the said *Porter* did deliver him a Billet in Paper, and did shew him a thing in yellow Wax, and told him it was a Subpœna, but did not declare to him at whose suit; therefore the said *Porter* is adjudged to pay to the defendant 20 s. costs for want of a Bill : *Porter* plaintiff, *Coleman* defendant. *An. 22 Eliz.*

The plaintiff shewed by his Bill, that he fraughted a Ship into *Spain*, which was there confiscate and all his goods; for the defendants husband being Master of the Ship had an English Book found in the ship, contrary to the Laws there, which he was forewarned of, and knew the

A Coun-
sellor not
to be exa-
mined of
any mat-
ter, where-
in he hath
been of
Counsel.

A Billet in
paper ser-
ved, and no
Bill in
Court,
costs is
awarded.

Feme co-
vert, whose
husband is
in the
Gallies,
must an-
swer mat-
ter of equi-
ty where-
with she is
charged.

the Laws, and the defendants husband was condemned to the Gallies 14 years; and sithence the plaintiff, as well for his own reliefe, as for the relief of the defendant, devised to obtaine license from her Majesty, for transporting 60 Tuns of Beer yearly, for eight years, the commodity whereof to be equally between them; and the Bill exhibited to her Majesty, was in both their names, and the party of the charge; but the defendant cautiously got the same altered into her own name, and hath sold the same away, without yeelding the plaintiff any profit; The Defendant doth demurre, because she is a Feme covert; it is ordered, a Subpœna be awarded against her to make a better answer: *Castleton* plaintiff, *Alice Fitz-williams* defendant. *An. 22 Eliz.*

Injunction *Thomas Jones* made oath, that a Writ left at the house of the defendant; and the plaintiff maketh oath, the defendant hath proceeded in a suit in the Kings Bench contrary to an Injunction; therefore an Attachment is awarded. *Bodnam* plaintiff, *Morgan* defendant. *An. 22 Eliz.*

Consil.

Lower plaintiff, *Crudge* defendant, &

1707,

nxor, & aliis defendants *Peter Prowse* made oath that *R. G. N. G. Jo. B.* and others, having notice given unto them of an Injunction awarded out of this Court against the defendant, have disobeyed the same; therefore an attachment is awarded against them. *An. 22 Eliz.*

Matthew Davis made oath, that the Costs for defendant was served with a Bill^{want of a} of Paper at the plaintiffs suit, and ^{Bill.} upon his appearance no Bill in Court against him; therefore the plaintiff is adjudged to pay the defendant 30 s. costs: *Griffeth & aliis* plaintiffs, *Ap Jenn, Ap Jenkins* defendants. *An. 22 Eliz.*

The defendant maketh oath, that all the parties are inhabiting, and dwelling ^{Jurisdiction} within the Jurisdiction of the Marches ^{of Wales} of *Wales*; and for that it appeareth by ^{allowed.} the plaintiffs Bill, that the matter therein contained is for a supposed Lease, and for no title of land, therefore the cause is dismissed, and the plaintiff referred to take his remedy before the Commissioners of the Marches of *Wales*: *Arden* plaintiff, *Veale* and *Veale* defendants. *An. 21 Eliz.*

A Writ of
priviledg
disallow-
ed.

The Defendant got a Writ of priviledg as Servant to the Lord Keeper, and removed two several suits against him by the Plaintiff in *London*; forasmuch as the Lord Keeper declared in open Court, that the Defendant is not now his servant, therefore ordered, that the said two several causes be remanded into *London*, and the Defendant not to be allowed the priviledg of this Court : *Warren and Clerke* Plaintants, *Ralph Maynard* Defendant. An.
21 Eliz.

Bayliffs of
a Corpo-
ration not
compella-
ble to
make a
Lease.

The Plaintiff seeketh to compel the Defendants to make unto him a Lease, by reason of a promise made by *William Allestre*, and *Anthony Bat*, when they were Bayliffes of the said Town; and ordered, that the Corporation, nor any persons which heretofore have been, nor which hereafter shall be Bayliffs of the said Town, shall in any wise be charged as Bayliffs with the said promise; but the Plaintiff, if he will, may take his remedy against the said *Allestre*, and *Bat*, not as Bayliffs, but as common persons : *George Strainger* Plaintiff, *Beynbridge*, and *Edward Turnos* late Bayliffs of *Derby*, Defendants. An.
21 Eliz.

Nicholas

Nicholas Dyer made oath, that the defendant hath broken an order made in this Court; therefore an Attachment against him: *Margaret Stephens* plaintiff, *John Bawden* defendant. Anno 21 *Elix.*

Christopher Almy, Christopher Frome, James Wood, & alii, inhabitants of *Magna Ashley*, plaintiffs, *James Pycroft* defendant; the matter being for Hay, Corn, and Grass, upon oath not worth 40 s. It is by order dismissed, for that it is of so small a value. an. 21 *Elix.*

Parrot & alii plaintiffs, *Pawlet* defendant; The suit being for the benefit of the poor of *Drayton*, it is retained, though under 40 s. per annum. 21 *Elix.*

Forasmuch as *Richard Stodard* Justice and *Portrive*, and others his brethren of the Borough of *Minxhead*, have certified under their common Seal, that one *Nicholas Hooper* made oath before them for serving of a Subpcena on the defendant, who hath not appeared; therefore an Attachment is awarded. *Hooper & Hooper* plaintiffs, *Brace & uxor* defendants. Anno 21 *Elix.*

Meerefield plaintiff, *Cleverden* defendant, upon certificate made by the Mayor

of *Torrington* of serving a Subpœna, that Affidavit was made before him, for serving it upon the defendant, who hath not appeared ; therefore an Attachment is awarded. *An. 21 Eliz.*

A decree for the Plaintiff, yet put out of possession by the Defendant. A decree was made for the plaintiff for a Copyhold tenement, and yet the defendant put the plaintiff out of possession, notwithstanding the said decree ; and the Lord Keeper did write his Letters to the defendant, to suffer the plaintiff to enjoy the same Tenement according to the decree : *Lane* plaintiff, the Lord *Howard* Viscount *Bindon* defendant. *Anno 21 Eliz.*

X Defendant departing without license, an Attachment. The defendant was examined upon interrogatories, upon the breach of an order of this Court, and departed without license ; therefore an Attachment : *Boyle & uxor* plaintiffs, *Vivean* defendant. *An. 21 Eliz.*

Attachment discharged, paying the Plaintiff 10 s. cost. The defendant being served with a Subpœna the last Term, and coming up out of *Cornwall* to *London*, heard by common voice, the Terme was adjourned, and therefore did go back again, and the plaintiff got an Attachment against him; who hath appeared *gratis*, and put in his answer ; and therefore

fore he shall be discharged of the Attachment, paying 10 s. to the plaintiff for his costs : *Sirangman* plaintiff, *Vivian* defendant. *Anno 21 Eliz.*

The question was for a liberty of Liberty for common Fishing, and ordered for the a common plaintiff ; and upon Affidavit made, Fishing. the defendants have broken the same, ordered an Attachment shall go against them : Bayliffs, Burgesses, and Commonalty of the Town of *Yarmouth* plaintiffs, *William Paston, & alius* defendants, *An. 21 Eliz.*

The plaintiff and his Father were A Bond bound to the defendant in 500 l. to put in suit, stand to the award of Sir *James Dyer* for not Knight, and Lord chief Justice, who performing arbitrated, that the plaintiff, who had ing an award stay- the reversion in Fee, and the Father ed by In- who had the Estate for life, should junction, make such assurance as the defendant should reasonably devise.

The defendant did tender an assurance to the Father to be sealed, who Injunction to stay being old and blind, desired time to suit at confer with his friends ; the plaintiff common Law. upon request sealed the assurance, and his father afterwards sent word to the defendant he was willing to seal it, but the defendant answered, he did not pass

whether he did or no, because he had but an estate for his life, and the defendant had his bond to enjoy it during his life, which he did accordingly ; and yet nevertheless the defendant put the bond in suit upon his Fathers said refusal, but stayed by Injunction : *Knight plaintiff, Hartwel defendant. Anno 21 Eliz.*

**Commis-
sion of
Rebellion
for not
payment
of costs.**

A Commission of Rebellion for not payment of costs was awarded against the defendant to one *John ap David*, who did thereupon apprehend the defendant, and for his more safe keeping, delivered him to *Thomas Moston Esq;* High Sheriff of the County of *Flint*, who took charge of the Prisoner accordingly, and now refuseth either to deliver the Prisoner to the Commissioner, or to bring him himself into the Court at the day ; day is therefore given to the said *Thomas Moston* the late Sheriff, to bring into this Court the body of the said defendant, by *Thursday* next upon pain of 10 l. *Evans Clerke* Dean of Saint *Asaph* plaintiff, *Ap Rees, ap Bennet* defendants. *Anno 21 Eliz.*

The defendant was served with a counterfeit Subpœna, at the plaintiffs suit, but answered not, because he was told

told the Subpœna was counterfeit; thereupon an Attachment issued against him; ordered, that as well the defendant be discharged of the Attachment awarded against him, as the said *Baily*, who, as the defendant made oath, delivered the counterfeit process to him, to shew where, and of whom he had the Subpœna: *Baily* plaintiff, *Hawle* defendant. Anno 21 Eliz.

The defendant discharged of the Attachment because the Subpœna was counterfeit.

The Suit was to cause the defendant to perform an award of Arbitrators chosen by themselves, contrary to which award, the defendant hath put in suit an obligation of 100 l. wherefore an Injunction was granted for stay of the suit; and upon the defendants shewing his readiness to perform the award, ordered, that the said award shall be duly performed by both the said parties: *Reignolds* plaintiff, *Latham* defendant. An. 21 Eliz.

An award ordered to be performed.

Matthew Carew one of the Masters of this Court plaintiff, *Thomas Burfham* defendant. The defendant appearing this Term upon an Attachment of priviledg at the plaintiffs suit, hath put in bail, and answered to the Declaration of the plaintiff; therefore the defendant is licensed to depart

The defendant licensed to depart after answer in a writ of priviledg.

The defendant committed to the Fleet for a Rescue, brought an action for a false Return.

Subpoena against the plaintiff, to shew where he had his counterfeited Writs, and answer his misdemeanors, and pay costs.

till 15 Pasche next. Anno 21 Eliz.

Richard Champion, a Commissioner in a Commission of Rebellion, returned a Rescue against *Guy Bonvill*; who being examined, and his examination referred to two Masters of the Court, was found to have confessed the rescue; whereupon he was committed to the Fleet, and yet afterwards brought his action upon the case at the Common Law, against the said *Champion*, for his false Return; ordered, that a Subpoena be awarded against the said *Guy Bonvill*, to shew cause why an Injunction should not be awarded against him for stay of his action upon the Case; but afterwards, viz. 21 Eliz. the defendant was allowed to go forward in his action upon the case at the Common Law, because either of the parties there may plead his matter: *Joan Bonvill* widow plaintiff, *Bonvill* and *Mary Billingham* defendants. An. 21 Eliz.

The plaintiffs exhibited a frivolous Bill without a Counsellors hand, and got an Injunction for stay of any suit to be commenced in any of her Majesties Courts, but in this; which Subpoena and Injunction being served, seemed to be counterfeited; therefore ordered, a

Sub-

Subpcena be awarded against the Plaintants, as well to shew of whom they had the said Writ, and to answer their misdemeanors, as also to pay the defendant costs for his unjust vexation: *John ap Edward, ap Hugh, and David ap Howell, ap Jenkin* plaintiffs, *Ralfe Jenkin* defendant. *An. 21 Eliz.*

The defendants made Oath, they were served with Billers of Paper at the plaintiffs suit, and upon their appearance no Bill in Court against them; therefore the plaintiff is adjudged to pay the defendants 40 s. costs: *Edmund Williams* plaintiff, *Evan Williams, David Morgan, and Merrick Grannowe* defendants. *An. 21 Eliz.*

Costs for want of a Bill.

Brown, alias Garris, alias Pawdy Plaintiff, *Stuit* Defendant, made oath, that he was served with a Billet in paper, and upon his appearance no Bill in Court, and the Defendant hath lost the Billet of paper, and yet costs is awarded. *An. 21 Eliz.*

Costs for want of a Bill, the Billet being lost.

The Defendant put in a demurrer to the Plaintants Bill, without shewing any cause of his demurrer; it is therefore ordered, that a Subpcena be awarded against him to make a better answer: *Offeley* Plaintiff, *Morgan* Defendant. *An. 21 Eliz.*

A demurrer without shewing any cause, ordered to answer.

The

Five
pound
dismissed.

The matter complained of by the Bill is for 5 *l.* debt for Fish, therefore dismissed: *Foord & Foord* plaintiffs, & *Richards* defendant. *Anno 21 Eliz.*

Commis-
sion to
take the
defend-
ants an-
swers, they
being 70.
years old
a piece.

Symonds Brocebridge made oath, that the said *Elizabeth* and *Anne*, two of the defendants are above the age of 70. years apiece, and that the said *William* was coming up to *London* in his company, and they were both robbed, and *William* his horse taken from him, whereby he could not come to make his appearance; therefore a Commission is granted to take all the said defendants answers in the Countrey: *Hill* plaintiff, *Elizabeth Worly* widdow, *William Stapleton*, and *Anne* his wife defendants. *Anno 21 Eliz.*

20 of Feb.
Sir Nicho-
las Bacon
died 12 of
April, the
Seal deli-
vered to
Sir Tho-
mas Brom-
ley.

Memorand. that the 20 day of *Februry* last, Sir *Nicholas Bacon* Knight, Lord Keeper of the Great Seal of *England*, died at *York-house*, and the Seal being the same day sent for by the Lord Treasurer, remained with the Queens Majesty till the 12 day of *April* last, on which day the same was delivered to Sir *Thomas Bromly* Knight, Lord Chancellor of *England*. *Pascha 21 Eliz.*

Where by an order of the 10th of *Februry* last, a Subpœna was awarded against

against the defendant, to shew cause wherefore an award therein mentioned should not be ratified : Now Mr. *Flow-erdew*, of counsel on the defendants behalf, informeth, that the said award was not made by any order of this Court, and therefore desired that the said defendant may not be compelled to perform the same. It is ordered, that Counsel on both sides shall attend the morrow sevensnight, and then order shall be taken : *Barkley Miles* plaintiff, *Moore* defendant. An. 21 Eliz.

Counsel on both sides to attend concerning the ratifying of an award;

The plaintiff exhibited his Bill as a privileged man to Sir *Francis Kempe*, Prothonotary of this Court, for Lands lying in the County Palatine of *Chester*; and for that it appeareth by Letters Patents openly shewed in Court, under her Majesties Great Seal of *England*, that this Court by any privileged should not hold plea of any Lands lying within the said County Palatine, it is therefore ordered to be dismissed. if the plaintiff shew not good cause : *William Lomley* plaintiff, *Thomas Green*, *Thomas Marlow*, *Robert Taylor*, and *James Wagge* defendants. Anno 21 Eliz.

Jurisdiction of Chester allowed.

The plaintiff was adjudged to pay the

No costs
to be al-
lowed up-
on a dis-
claimer.

the Defendant 37 s. 6 d. costs, for that that he being served with a Subpœna in *Hillary Term*, appeared, and by his answer disclaimed; and yet after, the Plaintiff served him with a Subpœna to rejoyne: but afterwards the same costs were discharged by motion, for that the Defendant had before the costs put in his rejoinder; but upon a disclaimer no costs is to be allowed: *Read Plaintiff, Hawsted alias Lane Defendants. An. 21 Eliz.*

Costs al-
lowed the
Defendant,
being ta-
ken upon
a Com-
mission of
Rebellion.

The Defendant was taken upon a Commission of Rebellion at the Plaintiffs suit, required his costs to be allowed him; the Court asking the opinion of the Clerks, it was agreed with one consent, that he should have his costs allowed, therefore ordered accordingly: *Morgan Plaintiff, Ap John Gorge Defendant. An. 21 Eliz.*

Costs for
want of a
Bill, the
Billet lost.

The Defendant maketh oath, that he was served with a Billet in paper at the Plaintiffs suit, which Billet he lost by misfortune; and upon his appearance no Bill is in Court against him; therefore costs is awarded: *Brown, alias Garris, alias Pawdy Plaintiff, Stoyck Defendant. Anno 21 Eliz.*

The Plaintiff exhibited his Bill to
examine

examine witnesses in perpetual memo- A Com-
ry, touching a lease of Lands, which mission to
he, and those by whom he claimeth, examine
hath enjoyed 40 years; the Defendant witnesses
by answer claimeth the Lands as Copy- in perpe-
hold of inheritance to Mr. *Southwell*, tual me-
who is owner of the inheritance, and mory.
within age; and therefore prayed, that
no witnesses might be examined, till
Mr. *Southwell* be of full age: and yet
because the witnesses being old, and
may die in the interim, therefore a
Subpœna is awarded against the Defen-
dant, to shew cause why a Commissi-
on should not be granted: *Hearing*
Plaintant, Fisher Defendant. Anno 21
Eliz.

John Budden maketh Oath, that the Attach-
Defendants confessed unto him, they ment for
were served with a Subpœna at the not ap-
Plaintants suit, and have not appeared; peating.
therefore an Attachment is granted:
Perry Ar Plaintiff, Gatter alias Sharde
and Cole Defendants. An. 21 Eliz.

Upon the hearing of the matter for Dismission
the Manor of *Laughton*, and the Ad- for that
vowson of the Church of *Laughton*, they have
in the County of *Bucking.* it appeared, been in
that the Defendants, and they from possession
whom they claimed, have been in posses- 100 years;
sion

sion 100 years, with divers discents; therefore the defendants are dismissed: *Kinston* plaintiff, *Pigot & aliis* defendants. Anno 21 Eliz.

Attach-
ment for
putting in
a demur-
rer instead
of an an-
swer.

The defendant in *Hillary* Term made Oath, that he could not answer with-
out sight of Evidences in the Coun-
tre; and having day given him, he
now hath put in no answer, but a de-
murrer, contrary to the Orders of this
Court; therefore an Attachment is a-
warded against the defendant: *Farmer*
& aliis plaintiffs, *Fox* defendant. Anno
21 Eliz.

Day given
to the de-
fendant to
rejoyn.

John Harry made Oath for the ser-
ving of a Subpœna on the defendants to
rejoyn; therefore *Munday* next is gi-
ven to the defendants to rejoyn, or
else to lose the benefit thereof: *Joanes*
& aliis plaintiffs, *Whitney, Miles & ali-*
is defendants. Anno 21 Eliz.

A new
Commis-
sion to ex-
amine wit-
nesses, be-
cause they
appeared
not before.

Whereas a Commission issued out to
examine witnesses on both parties,
which is returned executed, upon Oath
made by *Giles Brewer*, that he served
precepts from the Commissioners up-
on *W. S. Tho. Lin. T. C.* and *Jo. Peers*,
to be examined on the defendants be-
half before the said Commissioners, who
appeared not; it is therefore order-
ed,

ed, that a new Commission be awarded to the former Commissioners at the defendants charge, as well to examine the said four witnesses, as any other; *Shephard* plaintiff, *Shephard & aliis* defendants. *an. 21 Eliz.*

The Duke of *Northumberland* acknowledged a Recognizance of 1000 Marks to the Lord *Cromwell*, and after granted certaine Lands to the defendant; afterwards both the Duke, and the Lord *Cromwell* were attainted of Treason, whereby the Recognizance came to the Queen, and in her name was put in suit by one *Lane*, to whom her Majesty had granted the same recognizance, who sought to extend the defendants said Lands alone, whereas there are divers other Lands to a great value in other mens hands liable to the said Recognizance; therefore it is ordered, that no Liberate goe out upon the said extent, until the Court order the same: The Queens Majesty plaintiff, *Colborne* defendant. *an. 21 Eliz.*

The plaintiff sought to be relieved upon an Obligation of 300*l.* which he entred into to make a joynture unto his wife, in consideration of 174*l.* promised to him by the defendant in marriage, Injunction to stay suite at Common Law,

riage, which was never paid unto him; therefore an Injunction is awarded, if cause be not shewed: *Osborne* plaintiff, *Havers* defendant. *Anno 21 Eliz.*

A new Commission to the defendant, and publication is stayed of witnesses examined by the plaintiff in Court.

The plaintiff and defendant both joyned in Commission to examine witnesses, and the plaintiff having the carriage of the Commission, did not execute the same, but did examine witnesses here in Court; therefore ordered the defendant should have a new Commission to the former Commissioners, wherein the plaintiff might also examine if he list; and at the returne thereof, publication, and in the meane time publication is stayed: *Mackworth* plaintiff, *Swayefield & aliis* defendants. *An. 21 Eliz.*

The defendant not to answer, till a Counsellors hand be put to the Bill.

A frivolous Bill was exhibited against the defendant, without a Counsellors hand; and therefore ordered, the defendant should not answer, untill a Counsellors hand were put to the Bill, and the contempt for not answering is suspended: *Farly* plaintiff, *Childe* defendant. *an. 21 Eliz.*

Dismission the Lands being under 40 s. per annum.

The defendant made oath, that the Lands complained of by the plaintiffs Bill is under 40 s. per annum, therefore dismissed: *Pottinger* plaintiff, *Cogayne* defendant. *an. 21 Eliz.*

The

The plaintiffe sued here to be relieved for a Lease of one thousand years of certain Lands, and depending the suit, the defendant by *quo minus* out of the Exchequer, being Tenant of other Lands to the Queen, brought an *Ejectione firme* against the under Tenants of the plaintiff; therefore an injunction to stay the said suit of *Quo minus*, if cause be not shewed: *Ioanes & aliis* plaintiffs, *Whitney Miles, & aliis* defendants. *an. 21 Eliz.*

The plaintiff made oath for the serving of a subpoena on *Mary Cavendish, John Gilgate, William Pipe, and Edmond Stiles*, to appear before Commissioners to be examined on his behalf; therefore an Attachment is awarded against them: *Turnor* plaintiff, *Warren* defendant. *an. 21 Eliz.*

John Quippe made oath, the defendant confessed he was served with a Subpoena for costs, and hath not paid it; therefore an Attachment: *Snell* plaintiff, *Rogers* defendant. *an. 21 Eliz.*

The defendant since the Bill exhibited, commenced several suites at the common Law for the cause here complained of against the plaintiff, and his under Tenants; therefore an Injunction to stay suits at common Law.

ction is awarded against him : *Thoroughgood* plaintiff, *May & aliis* defendants.
Anno 21 Eliz.

A demurrer generally ordered to answer.

The defendant demurred generally without shewing any cause of his demurrer : therefore ordered, if he shew not good cause of his demurrer upon *Friday* next, a Subpœna is awarded against him to make a better answer : *Peachie* plaintiff, *Twycrosse* defendant.
an. 21 Eliz.

The defendant charged upon account, shall not answer ; if upon a promise, he shall.

It is ordered, that if the plaintiffs do charge the defendants by their Bill for the issues and profits of Lands, which do lye in the County of *Lancaster*, meerly by way of account, then the defendants shall not be compelled to answer ; if the defendants be charged in respect of their promise, then they are to answer : *Wingfield Miles & uxor* plaintiffs, *Fleetwood & aliis* defendants.
an. 21 Eliz.

A Commission by consent to prove the receipt of rents, fines and Woodfales.

The suit was for certain rents, fines and Woodfales received by the defendants testator during the plaintiffs minority. It appeared, that if the plaintiff had made good prooffe, hee was to be relieved ; therefore a Commission is awarded by consent : *Borrough* plaintiff, *A. B.* defendant, *an. 21 Eliz.*

The



*The Kings Order and Decree in Chancery,
for a Rule to be observed by the Chancellor
in that Court; exemplified and enrol-
led for a perpetual Record there. Anno
1616.*

James by the grace of God, &c.
Whereas our Right Trusty and Wel-
beloved Sir *Francois Bacon* Knight, our
Counsellor and Attorney General, re-
ceived a Letter from our Chancellor of
England, Dated the 19 of *March*, *An.*
Dom. 1615. Written by our expresse
Commandment, directing him, and re-
quiring him, and the rest of our learned
Council, to peruse such presidents as
should be produced unto them, from
time of King *Henry* the Seventh, and
since, of complaints made in the Chan-
cery, there to be relieved accord-
ing to equity and conscience, after
Judgments in the Courts of the com-
mon Laws, in Cases wherein the
Judges of the common Law could not
relieve them: And thereupon to certi-
fie us of the truth of that they shall find,
and of their opinions concerning the

same, which Letter followeth in these words.

MAfter Attorney, His Majesty being informed, That there be many presidents in the Court of Chancery, in the time of King *H. 7.* and continually since, that such as complained there to be relieved according to equity and conscience, after Judgments in the Courts of the common Law, in Cases where the Judges of the common Law could not relieve them (being bound by their oath, to observe the strict rules of the Law) is willing to understand, whether there be such presidents as he is informed of: And therefore hath commanded me to let you know, that his will and pleasure is, that you call to assist you his Majesties Serjeants, and Sollicitor, and to peruse such presidents of this kind, as shall be produced unto you; and thereupon to certifie his Majesty of the truth of that you shall find, and of your opinions concerning the same; and for your better directions therein, I have sent you here inclosed a note in writing delivered unto me, mentioning some such presidents in King *H.* the 7. time and since, And I am told
that

that there be the like in former times;
his Majesty expecteth your proceeding
in this with as much speed as conveni-
ently you may: And so I rest,

At York house, 19
Martii, 1615.

Your very assured
loving friend.
T. Ellesmere Canc.

And whereas our Attorney General,
and the rest of our learned Council did
thereupon return unto us their certifi-
cate, subscribed with all their hands, ac-
cording to our commandment and di-
rection given them by the said Letter,
which Certificate followeth in these
words:

According to your Majesties com-
mandment, we have advisedly con-
sidered of the note delivered unto us,
of presidents of complaining and pro-
ceeding in Chancery after judgments in
common Law; and also have seen and
perused the originals, out of which the
same note was abstracted; upon all
which we do find, and observe the points
following.

1. We find that the same note is ful-
ly verified, and maintained by the ori-
ginals.

M 3

2. We

2. We find that there hath been a strong current of practice of proceeding in Chancery after Judgment, and many times after execution, continued from the beginning of *H.7.* Raigh, unto the time of the Lord Chancellor that now is, both in the Reignes (*separatim*) of the severall Kings, and in the times of the severall Chancellors, whereof divers were great learned men in the Law: It being in cases, where there is no remedy for the subject, by the strict course of the common Law, unto which the Judges are sworn.

3. We find that these proceedings in Chancery, hath been after Judgments, in actions of severall natures, as well real as personal.

4. We find it hath been after Judgments in your Majesties severall Courts, the Kings Bench, common Pleas, Justice in Oyer, &c.

5. We find it hath been after Judgments obtained upon verdict, demurres, and where Writs of error have been brought.

6. We find in many of the Cases, That the Judgments are expressly mentioned in the Bills in the Chancery themselves to have been given, and relief prayed there-

thereupon, sometimes for stay of execution, sometimes after execution, of which kind we find a great number in King *H.* the 7. his time.

7. We find the matters in equity layed in such Bills in most of the Cases, to have been matter precedent before the Judgments, and not matter of agreement after.

8. We find in the said cases, not only the Bill preferred, but motions, orders, injunctions, and decrees thereupon, for the discharging, and releasing of the Judgments, or abiding the possession thereupon obtained, and sometimes for the mean profits, and the release of the costs, &c.

9. We find in some of the cases in this very point, that Judgment hath been given, hath been stood upon by the defendants, and alledged by them by way of demurrer, and over-ruled.

10. We find that the Judges themselves, in their own Courts, when there appeared unto them matter of equity, because they by their oath and office could not stay the Judgments, except it be for some small time, have directed the parties to seek relief in Chancery.

11. We find that this hath not onely
M 4 been

been in the times of the several Chancellors, but by the Judges themselves, and that without difficulty, when they sat in Chancery, in the vacancy or absence of the Chancellor.

12. We find the hands of sundry principal Councillors at Law, whereof divers of them are now Judges, and some in chief place, in Bills of this kind.

13. Lastly, here were offered to have been shewed unto us many other presidents, whereof we heard some read, and found them to be of like nature with those contained in the note.

*Francis Bacon, Randell Crew.
Henry Mountague, Hen. Yelverton.*

And whereas also our said Attorney received one other Letter from our said Chancellor, with a case there inclosed, written likewise by our express commandment, dated the 27 of *March*, 1616. directing and requiring him, and the rest of our learned Council, together with the Attorney of our dear son Son the Prince, to confer together upon the said cause; and to consider advisedly of all the parts thereof; and thereupon to peruse all the Statutes of Præmunire, or
Pro-

Provisoës, and all other Statutes as they shall conceive to be necessary to be considered of, for the resolving the question propounded in that case; and thereupon to report unto us their opinions in writing concerning the same; which Letter and Case there inclosed follow in these words.

MAfter Attorney, His Majesty hath perused this case inclosed, and hath commanded me to send it to you; and his will and pleasure is, that you call unto you Mr. Serjeant *Mountague*, Mr. Serjeant *Crew*, Mr. Solicitor, and Mr. *Walter* the Princes Attorney, and that you confer together thereupon, and consider advisedly and deliberately of all the parts thereof; and thereupon to peruse all the Statutes of Præmunire or Provisors, and all other such Statutes as you shall conceive to be necessary to be considered of, for the resolving the question propounded in this case; this his Majesty would have be done with mature deliberation, and yet with as much speed as conveniently you can; and when you have sufficiently informed your selves therein, then to report to him your opinions in writing; and

and so I commit you to God, and rest,

At York house the 27. Your very lo-
 of March, 1616. ving friend,
 T. Ellesmore Canc.

A. Hath Judgment and execution in the Kings Bench, or common Pleas, against B. in an action of debt of 1000 l. And in an *ejectione Firme*, of the Manor of D. B. complains in the Chancery to be relieved against those Judgments according to conscience and equity, allowing the Judgments to be lawful and good by the rigour and strict rules of the Common Laws; and the matters in Conscience and Equity such, as the Judges of the common Law (being no Judges in Equity, but bound by their oaths to do the Law) cannot give any remedy or relief for the same, either by error or attain, or by any other means. *Questio.* Whether the Chancery may relieve B. in this or such like cases, or else leave him utterly remediless and undone; and if the Chancery be restrained by any Statute of *Præmunire*, &c. Then by what Statute, or by what words in any Statute is the Chancery so restrained, and Conscience and

and Equity banished, excluded and damned?

And whereas, according to our said commandment, our said learned Council, and the Attorney of our dear Son the Prince, returned unto us a Certificate of their opinions upon the said Statutes under all their severall hands concerning the same Case, which Certificate followeth in these words.

According to your Majesties Commandment, we have deliberately advised of the case sent unto us by the Lord Chancellor; and of the Statutes, as well those of *Præmunire* as others, as far as we take it may concern the Case; and for our better information therein, we have thought fit to send for, and peruse the original Records themselves, remaining in the Tower of *London*, of those Statutes, not onely appearing upon the Roll of Parliament, with the Kings answers, which is the warrant to the Roll of Parliament.

We have also taken into consideration, as well Book Laws, as divers other Acts of Parliament, which may give light unto the Statutes, whereupon the question

stion properly grows ; together with such ancient Records and Presidents as we could find, as well those which maintain the Authority of the Chancery, as those which seem to impeach the same ; and upon the whole matter, we are all of opinion, that the Chancery may give relief to the case in question ; and that no Statute of *Præmunire*, &c. or other Statute restrains the same.

And because we know not what use your Majesty will be pleased to make of this our opinion, either for the time present or future, we are willing to give some reasons of the same, not thinking fit to trouble your Majesty with all those things whereupon we have grounded our selves, selecting out some principal things, which moved us to be of this opinion, to the end this same may be a fuller object of your Majesties Princely Judgment, whereunto we always submit our selves.

And first, we must lay for a sure foundation, that which was contained in our former Certificate, concerning the continual practice, by the space now of six score years, in the times of King *Henry* the 7. King *Henry* the 8. King *Edward* the 6. Queen *Mary*, and Queen *Elizabeth*,

Elizabeth, of this Authority ; and that in
 the time when the same Authority was
 managed, not only by the Bishops, which
 might be thought less skilfull, or less
 affectionate towards the Laws of the
 Land; but also divers great Lawyers,
 which could not but know and honour
 the Law, as the means of their advance-
 ment, Sir *Thomas More*, and the Lord
Audly, the Lord *Rich*, Sir *Nicholas Bacon*,
 Sir *Thomas Bromley*, and Sir *John Pucke-*
ring ; and further, that most of the
 late Judges of the Kingdome, either as
 Judges when they sate in Chancery by
 Commission, or as Counsellors at Law
 when they set their hands to Bills, have
 by their judgement and counsel upheld
 the same authority ; and therefore, for-
 asmuch as it is a true ground, That *opti-*
mus legum interpres consuetudo, especially
 when the practice or custom passeth not
 amongst vulgar persons, but amongst
 the most high and scient Magistrates of
 the Kingdome ; and when also the
 practising of the same should lie under
 so heavy a pain as the *Premunire* : This
 is to us a principal and implicit satisfac-
 tion ; and those Statutes ought not to
 be construed to extend to this case ; and
 this of it self, we know, is of far more
 force

force to move your Majesty, then any opinion of ours, because Kings are fittest to inform Kings, and Chancellors to teach Chancellors, and Judges to teach Judges; but further, out of our own science and profession, we have thought fit to add these further reasons and proofs very briefly, because in case of so ancient a possession of Jurisdiction we hold it not fit to amplify.

The Statutes upon which the question grows, are principally two; whereof one is a Statute of *Premunire*, and the other is a Statute of simple Prohibition; that of *Premunire* is the Statute of 27 E. 3. cap. 1. And the Statute of simple Prohibition is the Statute of 4 H. 4. cap. 23. There are divers other Statutes of both kinds; but the question will rest principally upon those two, as we conceive it.

The entrance in
Seldens
discourse
fol. 63. b.

For the Statute of 27 E. 3. it cannot in our opinions extend unto the Chancery, for these reasons.

I. First, out of the mischief which the Statute provides and recites, viz. That such suits and pleas (against which the Statute is provided) were in prejudice and disinherison of the King and his Crown, which cannot be applied

ed to the Chancery : for the King cannot be disinherited of Jurisdiction, but either by a Forreigner, or by his Subject ; but never by his own Court

2. Out of the remedy which the Statute points ; viz. That the offenders shall be warned within two moneths, to be before the King and his Council, or in his Chancery, or before the Kings Justices of the one Bench, or of the other, &c. By which words it is opposite in it self, that the Chancery should give both the offence and the remedy.

3. Out of the penalty, which is not only severe, but hastily, namely, that the offenders shall be put out of the Kings protection ; which penalty altogether favours of adhering to Forreign Jurisdictions, and would never have been inflicted upon an excess onely of Jurisdiction in any of the Kings Courts, as the Court of Chancery is.

4. Out of the Statutes precedent and subsequent 25 E. 3. cap. 1. and 16 R. 2. cap. 5. which are of the same nature, and cannot be applied but to Forreign Courts, for the word *alibi*, or elsewhere, is never used, but where *Rome* is named specially before.

5. The disjunctive in this Statute, (which

(which onely gives the colour) viz. That they which draw any but of the Realm in plea, whereof the Cognizance pertaineth to the Kings Court (or) of things whereof Judgements be given in the Kings Court, or which do sue in any other Court, to defeat or impeach the Judgments given in the Kings Court; this last disjunction we said (which must go further then Courts out of the Realm, which are fully provided for by the former branch) hath sufficient matter and effect to work upon in respect of such Courts, which though they were totally within the Realm, yet in jurisdiction were subordinate to the forreigner, such as were the Legates Court, the Delegates Court, and in general all the Ecclesiastical Courts within the Realm at that time, as it is expressely construed in the Judges, 50 E. 4. fol. 6.

6. In this the sight of the Record of the Petition doth clear the doubt, where the Subjects supplicate to the King, to ordain remedy against those which pursue in other Courts then his own, against Judgments given in his Court, which explains the word (other) to be other then the Kings Courts.

7. With

7. With this agreeth notably the book of Entries, which translates the word (in other Court) not in *alia Curia*, but in *aliena Curia*.

8. This Statute of *viceſimo ſeptimo E.* 3. being in corroboration of the common Law (as it ſelf recites) we do not find in the Register any presidents of the Writs of *ad iura regia*, which are framed upon chief caſes that were afterwards made penal by the *Premunire*, but onely againſt the Eccleſiaſtical Courts.

9. Laſtly, we have not found any president at all of any conviction upon the Statutes of *Premunire* of this nature, for ſuits in Chancery, but onely two or three Bills of Indictment preferred, *ſed nihil inde venit*, for ought appears to us.

For the Statute of *H. 4.* that we doubt was made againſt proceeding within the Realm, and not againſt forraign, and therefore hath no penalty annexed; nevertheless we conceive that it extends not to the Chancery in the caſe delivered, for theſe Reaſons.

1. Firſt, this Statute recites where the parties are made to come upon grievous pain, ſometimes before the King himſelf, ſometimes before the Kings Council, and ſometimes in the

Parliament, to answer thereof anew, &c. Where it appeareth that the Chancery is not named, which could not have been forgotten, but was left out upon great reason, because the Chancery is a court of ordinary Justice for matter of equity; and the Statute meant onely to restrain extraordinary Commissions, and such like proceedings.

2. This appears fully by view and comparing the two Petitions, which were made the same Parliament of 4 H. 4. placed immediately the one before the other. The first, which was rejected by the King, and the second, whereupon this Statute was made; whereof the first was to restrain the ordinary proceedings of Justice, that is to say, in the Chancery by name, in the Exchequer, and before the Kings Council by process of Privy Seal; unto which the King makes a Royal and prudent answer in these words: The King will charge his Officers to be more sparing to send for his Subjects by such process, then heretofore they have been; but notwithstanding it is not his mind, that the Officers shall so far obtain, but that they may call his Subjects before them, in matters and causes necessary, as it hath been

been done in the time of his good Progenitors; and then immediately follows the Petition, whereupon the Act now in question was made, unto which the King gave his assent, and wherein no mention is made at all of the Chancery or Exchequer.

3. If the Chancery should be understood to be within the Statute, yet the Statute extends not to this case; for the words are, that the Kings Subjects are driven to answer thereof anew, which must be understood, when the same matter formerly judged, is put in issue or question again, but when the cause is called into the Chancery onely upon point of equity, there, as the point of equity was never in question in the common Law Court, so the point of Law or of fact (as it concerns the Law) is never in question in the Chancery; so the same thing is not twice in question, or is answered anew: for the Chancery doth supply the Law, and not cross it.

4. It appeareth to our understanding, by the cause of error, and attain in the same Statute, what jurisdiction it was that the Statute meant to restrain, *viz*, such Jurisdiction as did assume to re-

reverse and undo the Judgment, as error or attaint doth, which the Chancery never doth, but leaves the Judgment in peace, and onely meddles with the corrupt conscience of the party; for if the Chancery should assume to reverse the Judgment in the point adjudged, it is void, as appeareth 39 E.3. f.14.

5. We find no presidents of any proceeding to conviction or Judgment upon any indictment framed or grounded upon this Statute, no more then upon the Statute of Præmunire; and the late Indictments are *contra diversa Statuta*, not mentioning the particular Statutes.

6. Lastly, it was a great mischief to force the subject in all cases to seek remedy in equity, before he knew whether the Law will help him or no, which oftentimes he cannot do till after judgment, and therefore he is to seek his salve properly, when he hath his hurt.

There be divers other things of weight which we have seen and considered of, whereupon we have grounded our opinion, but we go no further upon that we have seen.

But because matters of presidents is greatly considerable in this case, and that

that we have been attended by the Clerks of the Chancery, with the presidents of that Court, and have not been yet attended by any Officer of the Kings Bench with any president of judgments, if it shall please your Majesty faithful report of them, as we have done of the other; all which, &c.

*Francis Bacon, Hen. Mountague,
Randall Crew, Hen. Telverton.
John Walter.*

Now forasmuch as Mercy and Justice be the true supports of our Royal Throne, and that it properly belongeth to us in our Princely office, to take care and provide, that our Subjects have equal and indifferent Justice ministred to them; and that where their case deserveth to be relieved in course of equity by suit in our Court of Chancery, they should not be abandoned, and exposed to perish under the rigor and extremity of our Laws; we in our Princely judgment having well weighed, and with mature deliberation considered of the said several reports of our learned Council, and of all the parts of them, doe approve, ratifie and confirm as

well the practice of our Court of Chancery expressed in the first Certificate, as their opinions for the Law upon the Statutes mentioned in their latter Certificate, the same having relation to the case sent them by our said Chancellor ; and do will and command, that our Chancellor, or Keeper of the Great Seal for the time being, shall not hereafter desist unto our Subjects upon their several complaints (now or hereafter to be made) such relief in equity (notwithstanding any former proceedings at the common Law against them) as shall stand with true merits and Justice of their cases, and with the former ancient and continued practise and proceeding of our Chancery ; and for that it appertaineth to our Princely care and office onely to Judg over all our Judges, and to discern and determine such differences as at any time may or shall arise between our several Courts, touching the jurisdictions, and the same to settle and decide as we in our Princely wisdom shall find to stand most with our Honor, and the example of our Royal Progenitors in the best times, and the general weal and good of our people, for which we are to answer unto God, who hath

hath placed us over them : Our will and pleasure is, that our whole proceedings herein by the decrees formerly set down, be enrolled in our Court of Chancery, there to remain of record, for the better extinguishing of the like questions or differences that may arise in future times.

Decimo octavo Julii.

Anno 14.

R. Regis, &c.

Per ipsum Regem.

Fran. Bacon.

Hen. Yelverton.

FINIS.
